Think
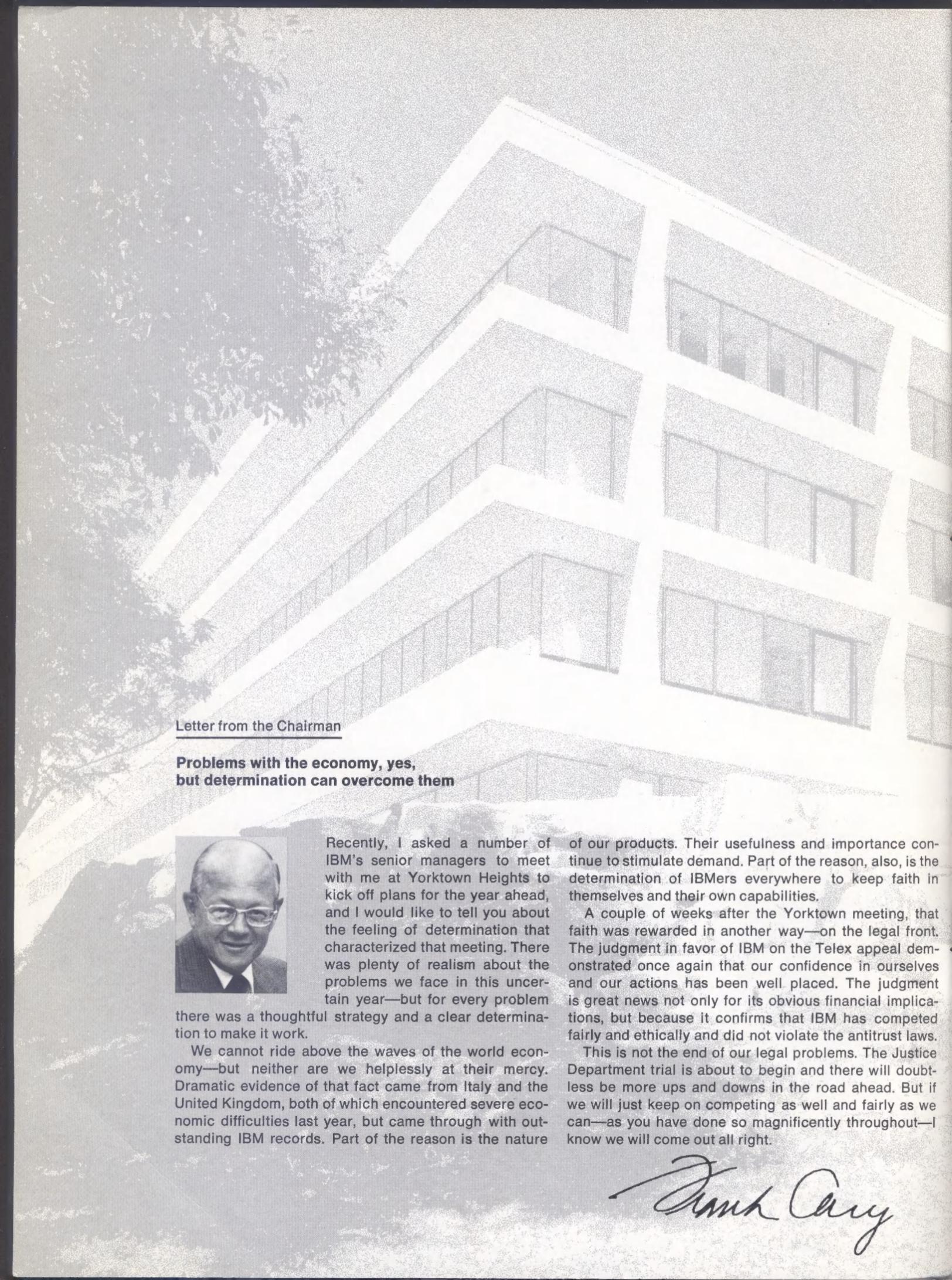
DOWN UNDER

For IBM Australia, it's frontierland

SPECIAL: IBM'S DEFENSE IN THE JUSTICE DEPARTMENT SUIT

ALSO: BACKGROUND ON THE TELEX DECISION

Problems with the economy, yes, but determination can overcome them

Recently, I asked a number of IBM's senior managers to meet with me at Yorktown Heights to kick off plans for the year ahead, and I would like to tell you about the feeling of determination that characterized that meeting. There was plenty of realism about the problems we face in this uncertain year—but for every problem there was a thoughtful strategy and a clear determination to make it work.

We cannot ride above the waves of the world economy—but neither are we helplessly at their mercy. Dramatic evidence of that fact came from Italy and the United Kingdom, both of which encountered severe economic difficulties last year, but came through with outstanding IBM records. Part of the reason is the nature of our products. Their usefulness and importance continue to stimulate demand. Part of the reason, also, is the determination of IBMers everywhere to keep faith in themselves and their own capabilities.

A couple of weeks after the Yorktown meeting, that faith was rewarded in another way—on the legal front. The judgment in favor of IBM on the Telex appeal demonstrated once again that our confidence in ourselves and our actions has been well placed. The judgment is great news not only for its obvious financial implications, but because it confirms that IBM has competed fairly and ethically and did not violate the antitrust laws.

This is not the end of our legal problems. The Justice Department trial is about to begin and there will doubtless be more ups and downs in the road ahead. But if we will just keep on competing as well and fairly as we can—as you have done so magnificently throughout—I know we will come out all right.

Frank Cary

Think

Volume 41 Number 1
January/February 1975

Think

The contents of this issue, in brief

Foley Square, New York City, where the trial is scheduled to take place, has been long and complex. This article summarizes the background of the case, and a separate insert presents excerpts from IBM's 374-page Pretrial Brief. The brief outlines the core of IBM's defense.

MANAGEMENT VIEWPOINT

For minorities and for women, the company's Equal Opportunity charts show more managers, more sales reps, more professionals, more technicians. Among minorities and among women, the number of managers, for example, has tripled in just six years. So, too, in sales, where women are now nudging the 1,000 mark and minorities have eclipsed it.

In total numbers, the minority growth has been impressive—from 1,250 employees a dozen years ago when IBM joined the Government's Plans for Progress Program to 17,177 today. In 1974 alone, nearly 25 percent of the year's recruits came from minority groups. Despite this progress, managers agree the Equal Opportunity programs still have a way to go. And six IBM employees offer their views.

MARKETPLACE

Its size and price (under $1,000) make System/32 IBM's smallest computer— with a big potential. What makes the system unique is its easy-to-use features, including application programs for five industries all ready to go as soon as they arrive at the customer's office. Developed by the General Systems Division, System/32 follows System/3, still IBM's best selling computer after five years in the marketplace. On announcement day, 200 System/32's were up and running at GSD locations around the country.

For Stan and Barbara Niekras, the "North Country" is 7,000 square miles of opportunity. This husband-wife team is the full complement of the General System Division's suboffice in Gouverneur, N.Y., a small village (pop. 4,574) hard by the Canadian border. What's life like in this marketing outpost? Customers sometimes drop by to discuss business over coffee (the suboffice is officially located in the Niekras basement). But, most often, the Niekrases are on the road to an account, be it a tombstone-cutter, newspaper, or the largest manufacturer of shade-rollers in the U.S.

Letters

How about APL?

I was quite disappointed in the Special Report on Programming . . .

The six languages which IBM officially supports should have been listed. The two interactive languages which IBM officially supports should have been identified. The only place that APL is even mentioned is . . . when it is stated that it is "popular— sometimes to a level of fanaticism." No distinction was made as to whether this is good or bad. I believe that if it was indeed meant as a positive descriptor, an effort should have been made to explain the qualities which lead to such outstanding popularity.

It would have been helpful if a clear statement of strategy direction for IBM had been made with regard to languages. Which ones are preferred for what and why . . . IBM is going to have to make users into programmers or operators or both via terminals. Which language(s) allows or encourages this of the six IBM supports? (Answer—APL) . . .

G. T. Hunter
APL Manager
SDD Poughkeepsie

Not enough GSD

I was disappointed to see that your articles on programming in the Oct./ Nov. issue were totally SDD-oriented. Isn't GSD doing any programming?

I was disappointed that Jean Sammet's article on programming languages excludes RPG.

Are you really an IBM magazine or just a large system magazine. Can you really ignore the fact that we have 25,000 worldwide users supported by GSD programming and that these users are using the RPG language?

Jim Sloan
GSD Rochester

Editor's Note: Among the articles, a profile on GSD Project Manager Terry Brown and his work with RPG. As for Miss Sammet's views on RPG, they are **her** *own. She has consistently taken the position that RPG is not a higher-level language in the technical sense of that term, but is an extremely useful tool for many users. There are many other useful programming tools she says (e.g., operating systems, debugging aids), which are also not programming languages.*

APPEALS COURT OVERTURNS THE TELEX DECISION

The first inkling came at Corporate Headquarters in Armonk shortly after 5 p.m., when a news-wire machine in the Press Review department rapped out this message from the Dow Jones News Service:

"The S.E.C. suspended trading in the securities of International Business Machines Corp. and Telex Corp. The agency said the suspension, which is scheduled to end at 10 a.m., January 28, was imposed to allow time for investors and shareholders to evaluate the impact of the ruling by a U.S. appeals court on an antitrust suit involving Telex and IBM."

It was Friday, January 24, and the news that the long-awaited decision would soon be available spread quickly.

Another Dow Jones dispatch added to the suspense: "A spokesman for the 10th Circuit Court of Appeals said

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IOTH CIRCUIT REVERSES RULING IN FAVOR
OF TELEX IN IBM SUIT

    DENVER -DJ- THE TENTH U.S. CIRCUIT
COURT OF APPEALS REVERSED THAT PART OF A
JUDGMENT BY A DISTRICT COURT WHICH HAD
ORDERED A JUDGMENT AGAINST INTERNATIONAL
BUSINESS MACHINES CORP.
    THE APPEALS COURT SAID THAT THE TRIAL
COURT HAD ERRED IN DEFINING 'RELEVANT
MARKET' AS THE TERM IS USED IN THE
ANTITRUST LAWS.
    THE TRIAL COURT HAD AWARDED TELEX
ANTITRUST DAMAGES OF $259.5 MILLION
AGAINST IBM.
    IN ITS RULING THE APPEALS COURT ALSO
SAID THAT IT REVERSED THE JUDGMENT AGAINST
IBM BECAUSE 'OF THE TRIAL COURT'S
FINDINGS OF FACT AS TO THE ACTS OF IBM
AND THE COURT'S DETERMINATION THAT
THESE ACTS WERE PREDATORY AND CONTRARY
TO THE SHERMAN ANTITRUST ACT.'
    IN ANOTHER PORTION OF THE RULING THE
APPEALS COURT UPHELD A $21.9 MILLION
JUDGMENT AGAINST TELEX WHICH HAD BEEN
SOUGHT BY IBM.
    THE APPEALS COURT SAID 'THE JUDGMENT
OF THE TRIAL COURT AGAINST TELEX BASED
ON THE COUNTERCLAIM OF IBM . . .' IS
SUPPORTED BY THE EVIDENCE AND AFFIRMED
AS TO THE LIABILITY OF TELEX.
    HOWEVER THE APPEALS COURT REDUCED THE
DAMAGE AWARD TO IBM TO $17.5 MILLION AND
COMPENSATORY DAMAGES.
    THE APPEALS COURT SAID THE $1 MILLION
IN PUNITIVE DAMAGES WAS AFFIRMED AS
MODIFIED.
    IT ALSO VACATED THE TRIAL COURT'S
AWARD OF ATTORNEYS' FEES AND COSTS.
    IN REVERSING THE TRIAL COURT'S JUDGMENT
AGAINST IBM THE APPEALS COURT SAID THE
EVIDENCE ESTABLISHES THAT IBM'S ACTIONS
'CONSTITUTED VALID COMPETITIVE PRACTICES
AND WERE NEITHER PREDATORY OR OTHERWISE
VIOLATIVE OF THE ANTITRUST ACT.'

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DOW JONES 300

the court would have no comment until 5:45 p.m., E.S.T., on the expected decision in the Telex Corp. suit against International Business Machines Corp."

Then, shortly after 6 p.m., another bulletin. The decision. And good news, indeed. It carried a dateline of Denver, the city where the 10th Circuit Court is located. "The 10th Circuit Court of Appeals," it read, "reversed that part of a judgment by a district court which had ordered a judgment against International Business Machines Corp." Then, the details. It was a clear victory for IBM.

A three-judge panel from the appeals court had issued an order completely reversing a district court decision. That decision had found that IBM engaged in monopolization and predatory acts; had prohibited a number of formerly conventional IBM marketing practices; and had awarded the plaintiff, the Telex Corporation,

hundreds of millions of dollars in damages.

At the same time, the appeals court had upheld the lower court's judgment against Telex in a counterclaim filed by IBM, a counterclaim that Telex, a manufacturer of computer peripheral equipment, had "pirated" IBM trade secrets.

"Is it true?" one vice president asked, when he was able to get CHQ on the phone. "I heard a flash on my car radio, and I almost ran off the road."

Frank Cary, IBM's chairman of the board, confined his statements to the press to the observation that IBM was "pleased" at the outcome, admittedly an understatement. But to employees he said: "Everyone in IBM has known all along that we compete fairly in the marketplace and it is great to have the appellate court confirm it."

Cary was quick to praise the two men most responsible for IBM's resounding victory: Nicholas deB. Katzenbach, IBM vice president and general counsel, and Thomas D. Barr of the law firm of

Cravath, Swaine & Moore.

The judgment of the appeals court was that the trial court had erred in its definition of the market allegedly monopolized—the "relevant market." And that fundamental misconception, said the court, affected the remainder of the trial court's decision.

The appeals court also disagreed with the trial court's finding that certain IBM actions were "predatory and contrary to the Sherman antitrust laws." Rather, it said, they were valid competitive practices.

In addition to sweeping aside a damages award to Telex of $259.5-million, the appeals court also did away with several prohibitions imposed by the lower court and having to do with the way IBM markets its equipment.

The damages that Telex was originally ordered to pay IBM for its trade secrets misappropriations were reduced somewhat, to $17.5-million, but the additional award of $1-million in punitive damages was upheld.

Not only did the reversal completely absolve IBM of any sort of monopolistic behavior in the Telex case, but it also must be thought of as giving pause to those firms, mostly peripherals manufacturers, which—in the wake of the original Telex decision—rushed to court with suits based on identical issues.

Said *The Wall Street Journal* in a story the following Monday:

"Although Telex quickly said it would press an appeal to the Supreme Court, the new ruling in IBM's favor is expected to have a profound impact on the many other civil antitrust suits outstanding against IBM. Chief among these is the Justice Department's six-year-old complaint, scheduled to go to trial February 18. Just three weeks ago, a Federal judge in New York allowed that complaint to be amended to include charges that echo Telex's."

According to IBM, the issues in most of the other peripherals companies' complaints "are identical with those decided in our favor by the appeals court." ∎

First, the shock. Then sixteen long months of waiting

It was in the fall of 1973 that Federal Judge A. Sherman Christensen announced his decision in favor of Telex, and a number of headlines that day and later contained references to those Biblical antagonists, David and Goliath.

It was, after all, an obvious metaphor. Relatively small Telex, a Tulsa-based manufacturer of tape drives, printers, and disk drives, had scored a stunning court victory over big IBM.

Shock waves reverberated throughout the data processing industry. The price of IBM stock tumbled.

"What the journalists overlooked," said an IBM attorney on viewing some of the press clippings, "was that the original David was a straight arrow—not somebody who stole ideas and secrets from somebody else."

He was referring to the fact that the same judge who found IBM guilty of monopolizing a part of the data proc-

Thomas D. Barr

Nicholas deB. Katzenbach

essing marketplace from 1969 to 1972 also found Telex guilty of illegally obtaining confidential IBM product specifications and marketing plans.

This provided some consolation for IBM, its legal staff, and the New York law firm of Cravath, Swaine & Moore, which had conducted the company's defense since Telex filed a private civil antitrust suit against it in January of 1972.

But there was no escaping the fact that Telex had won—and won big.

In his decision, filed on September 17 of 1973, Judge Christensen awarded Telex $352.5-million in damages. He also ordered IBM to stop a number of marketing practices which Telex had complained of.

The Telex suit was brought under Sections 1 and 2 of the Sherman Act, the oldest and still the most important of the Federal antitrust laws, and Section 3 of the Clayton Act. IBM, in turn, had charged Telex with acts of industrial espionage, and the suit was tried before Judge Christensen, without a jury, in the Federal district court in Tulsa.

The trial lasted from April 16 to May 24 of 1973, and, including summary oral arguments that were heard in mid-June, took 31 days to complete. Witnesses included economists, officials of both companies, computing consultants, financial analysts, former IBM employees, professors, and computer users.

A deluge of documents, many of them from IBM's files (under the rules of pretrial "discovery," Telex was allowed to search through its opponent's records, as was IBM), rained upon the court. In all, both sides were responsible for some 86,000 pages of testimony and documentary evidence.

"At the apex of all this," wrote a *Datamation* reporter, "sat Judge A. Sherman Christensen. He sat listening intently, seldom changing expression through a long testimony that ranged from [tales of] . . . missing secret documents to stultifying dissertations

On to the Supreme Court? Maybe yes. Maybe no.

The Telex Corporation has said that it will appeal to the Supreme Court the judgment of the 10th Circuit Court of Appeals. Just what does an appeal to the nation's highest tribunal entail?

While the Supreme Court has original jurisdiction and must preside over certain matters (for example, disputes between states), its appellate jurisdiction is, in part, discretionary. This means that, except for some special kinds of appeals, it is not obligated to accept an appeal from a lower court.

In connection with a discretionary appeal, a company or person wishing to appear before the Supreme Court must file a petition for *certiorari* within 90 days of the entry of the judgment being appealed. This period can be extended for up to 60 days.

Such a petition, in essence, gives to the Court the reasons why it should accept the petition.

The great majority of petitions for *certiorari* are denied, and it is not customary for the Supreme Court to give any reasons for a denial. If a petition is denied, that ends the matter.

If a petition is accepted, the parties prepare briefs and appear before the Court for oral arguments. The Supreme Court can overrule or uphold all or part of any lower court decision. There is no appeal from a Supreme Court decision.
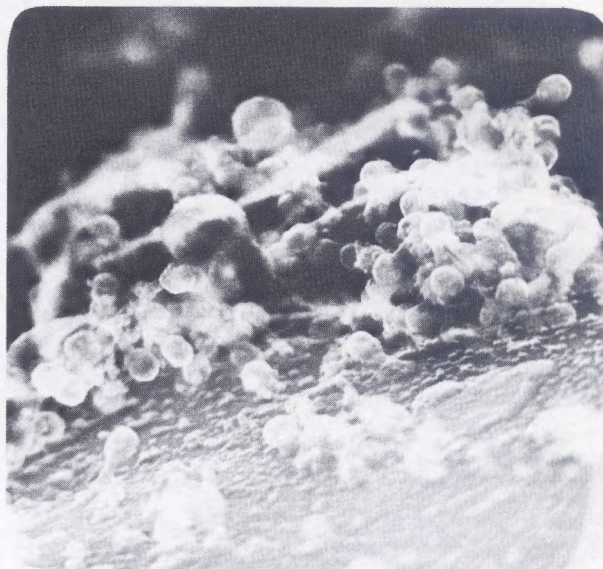
The virus—now you can see it

The virus is something everyone talks about, but few of us have ever seen. Some viruses are helpful, some harmful, but all are invisible to the best optical microscopes. Even electron microscopes, until recently, could not provide sharp, camera-like pictures of a virus because of its incredibly small size (its tail is only a hundred or so atoms across). Now, with electron beam technology a surface scanning microscope has been constructed by Dr. Alec Broers, using a concept developed by Dr. Oliver Wells—both at the Thomas J. Watson Research Center—that can produce surface images as clear and graphic as the one above. It shows a number of viruses, named T4 coliphage (which are intensively studied by medical researchers), emerging from a ruptured bacterium. The viruses are enlarged 30,000 times. The picture was taken with the help of Drs. Barbara Panessa and Joseph Gennaro of New York University.

The microscope wasn't built for virus study, but in a serendipitous way, it will almost certainly aid medical research. Its purpose is to help examine computer circuits, and the virus pictures were made for test purposes. ■

The court opinion

Following its order on January 24 reversing the Tulsa district court's judgment against IBM, the 10th Circuit Court of Appeals released a 94-page opinion that traced the history of the case and the issues, and gave the reasons for the reversal. These are excerpts from that opinion:

The Relevant Market

We recognize that market definition is generally treated as a matter of fact and that findings on this subject are not to be overturned unless clearly erroneous. Our question is, therefore, whether it was clearly erroneous for the court to exclude peripheral products of systems other than IBM such as Honeywell, Univac, Burroughs, Control Data Corp. and others, together with peripheral products plug compatible with the systems and, indeed, whether the systems themselves manufactured by the companies are to be taken into account . . .

Inasmuch as IBM's share of the data processing industry as a whole is insufficient to justify any inference or conclusion of market power in IBM, the exclusion from the defined market of those products which are not plug compatible with IBM central processing units has a significant impact on the court's decision that IBM possessed monopoly power.

We then must inquire whether this market definition was correct in light of the following factors:

1. Should peripheral products not plug compatible with IBM systems be considered part of the relevant market in view of the existence of easy and practicable interchange of these products by use of interfaces designed for this purpose?

2. Should not the peripheral products plug compatible with systems other than IBM be considered part of the relevant market because of the admitted competition existing as between system manufacturers on a system by system basis in which the peripherals are a significant part of the system?

In dealing with the issue whether peripheral products non-compatible with IBM systems ought to be considered, the court said . . . that as a *practical* matter there is no direct competition between IBM peripherals and the peripherals of other systems manufacturers. However, this finding is out of harmony with other findings which the court made . . .

* * *

The fact that Telex had substantially devoted itself to the manufacture of peripheral products which were used in IBM CPUs and which competed with IBM peripheral products cannot control in determining product market since the legal standard is whether the product is reasonably interchangeable.

This standard was laid down by the Supreme Court in the famous case of United States v. DuPont de Nemours & Co. . . . (1956). In this case, as in the case at bar, the scope of the products market was crucial. The Supreme Court determined that if one product may substitute for another in the market it is "reasonably interchangeable." It was applied there even though DuPont largely controlled the production of cellophane. It was held to be not guilty of monopolization simply because the relevant market included cellophane as well as other flexible wrapping materials . . .

* * *

It seems clear that reasonable interchangeability is proven in the case at bar and hence the market should include not only peripheral products plug compatible with IBM CPUs, but all peripheral products, those compatible not only with IBM CPUs but those compatible with non-IBM systems. This is wholly justifiable because the record shows that these products . . . are fully interchangeable and may be interchanged with minimal financial outlay, and so cross-elasticity exists within the meaning of the DuPont decision.

The court's very restrictive definition of the product market in the face of evidence which established the interchangeable quality of the products in question, together with the existence of cross-elasticity of demand, must be regarded as plain error.

The 'Acts' of IBM

If it be assumed that IBM had monopoly power during the period under consideration, which we do not decide, but the trial court so found, and further, that this position had been lawfully attained, also as the trial court found, were the changes in marketing methods under such conditions made by IBM lawful? The trial court found they were not. These changes were price reductions and leasing of equipmen under fixed-term leases and extended-term leases.

* * *

The trial court did not find nor did it hold that the acts of IBM found to be illegal were derived from its power in the market or its size, nor were they acts which could only have been performed by one with the requisite power. The "acts" found by the trial court to be illegal were ordinary marketing methods available to all in the market. As to pricing, the trial court found it was used by IBM only to a limited extent, that is, within the "reasonable" range. The resulting prices were reasonable in that they yielded a reasonable profit. This "profit" the trial court found to be about 20 percent. Thus there is no use of price reductions by an economic giant to drop prices to a level where it is not receiving an adequate return and must instead rely on its reserves or other activities to continue producing and marketing the particular product. Instead in the case before us, as demonstrated by the trial court's findings, the particular products of IBM here considered stood on their own feet as to financial returns . . . From these facts it must be concluded that IBM did not *use* monopoly power even if it assumed that it possessed such power . . . Again under our assumption IBM gained its market position by technical advances and quality products . . .

on the economics of the computer industry and the finer technical points of tape drive controllers."

Christensen, then 68, has been a Federal judge since 1954. After hearing the final arguments, he returned to his home in Salt Lake City, Utah, and mailed his decision to the court in Tulsa nearly three months later.

A key issue in the trial was the definition of the relevant market, the one allegedly monopolized. IBM said that it included all data processing products, goods, and services, and introduced a census of competitors taken in 1970 which showed that IBM had 35.1 percent of the revenue in this market— hardly a monopoly position.

Not so, said Telex. The relevant market was much smaller. It was composed of peripheral equipment which could be plugged into IBM computers. IBM, of course, had originally developed such equipment (thus starting with 100 percent of this segment of the business), but a number of other firms known as plug-compatible manufacturers also began to manufacture and market such equipment.

These plug-compatible firms were a new phenomenon in the data processing industry. The modus operandi for some—perfectly legal as long as they waited until the product actually appeared—was to copy an IBM peripheral device, sometimes adding extra features or enhancements, and offer it to the users of IBM systems at a lower price than IBM charged.

They could do this and still make a profit because they did not have to recover the heavy research-and-development costs that IBM did.

Telex charged that IBM, stung by lost revenue in the peripherals part of its product line, had taken harsh and illegal actions against it, actions that included offering several disk drives at significantly lower prices, and introducing leases that provided reduced rates for a long-term agreement.

IBM's response was that it had done nothing illegal or even questionable, that it had taken reasonable and business-like marketing steps to meet competitive pressure. And it said that Telex's problems were the result of its —Telex's—own management errors and miscalculations.

IBM *had* offered equipment at a lower price, but this, the company argued, tended to disprove any monopolization since the cost to the consumer was being driven down by healthy competition. What's more, said IBM, it still made a healthy profit on the equipment in question, and, traditionally, so-called predatory pricing was considered to be that which was actually below cost—a blatant attempt to inflict injury on a competitor.

As far as the new leasing arrangements were concerned, argued IBM, they were in common use in the data processing industry, and had been so for some time.

When the trial ended, IBM's lawyers felt that the company had defended itself successfully against the charges, and that the decision would reflect this.

But it didn't. And the 222-page decision, first read by IBM on September 17 in the district court clerk's office in Tulsa, awarded Telex more than a third of a billion dollars in damages. It also prohibited certain IBM marketing practices.

In addition to having to pay IBM nearly $22-million for illegally obtaining information about future IBM products, Telex was ordered to return IBM confidential documents; to abstain from having ex-IBMers hired by Telex do work similar to that which they did at IBM; and to abstain from hiring IBM employees without court permission for a period of two years.

In a letter sent out to all IBM stockholders the day after the decision, Chairman of the Board Frank T. Cary said the company would appeal, that the judge's ruling went "beyond that of any judicial precedent and contains serious errors of fact and law."

Particularly baffling was the rationale behind the huge damages award,

$18.5-million for IBM in Telex pirating of trade secrets

It's bad business to misappropriate trade secrets.

In the original Telex decision in late 1973, the judge awarded IBM nearly $22-million in damages because Telex had carried out what he called a "massive and pervasive program" aimed at pirating proprietary information from IBM. The appeals court reduced the amount to $18.5-million, but said that the trial court's findings were "amply supported by the record."

The heart of those findings, said the appeals court, was that "Telex lured key employees away from IBM with the promise of greatly increased salaries, plus substantial bonuses, and that these quondam [former] IBM employees brought with them IBM trade secrets . . . ."

In other cases involving the theft of IBM trade secrets—specifically secrets about disk storage devices—three men, former IBM employees in San Jose, have either pleaded or been found guilty of felony charges in Santa Clara County, Calif., Superior Court. They had been indicted by a grand jury in July 1973.

SIX YEARS LATER, JUSTICE DEPARTMENT SUIT NEARS TRIAL

by Peter Hillyer

Slowly, very slowly, the Justice Department's civil antitrust suit against IBM is moving toward trial.

It had appeared almost certain that the long-awaited trial would begin on February 18. But shortly before that date, both sides asked for a delay. The reason: IBM documents in the possession of the Justice Department had become badly mixed up, and could not be organized in time.

The delay was the second for the trial, originally scheduled for October 7 of last year. At the time this article went to press, a new date had not been set.

When the trial at last begins, it will be more than six years after the Justice Department first filed charges against IBM—charges that IBM had monopolized the computer market. If it wins the case, the Justice Department has said, it will ask that the company be broken up into several separate units.

IBM maintains that the data processing industry is far from monopolized and, further, that it has none of the symptoms of a marketplace dominated by a single company.

In a pretrial brief filed with the court in January, IBM said that the action by the Justice Department was "an attack on IBM's success through competition on the merits and a repudiation of sound antitrust precedent and policy."

The trial itself is expected to be a long and incredibly complex one, a classic confrontation, according to IBM counsel, between differing antitrust theories about who should be protected—the competitor or the consumer. IBM contends that the basic purpose of antitrust law—to safeguard the public from unreasonably high prices and take-it-or-leave-it marketing—is being distorted, and that the law is being used, instead, to buttress inefficient, unproductive firms.

Here, briefly, are some of the steps which led from Washington, D.C., where the Justice Department's antitrust charges were drafted, to the Federal Courthouse in New York City's Foley Square, where this landmark legal drama will unfold.

On January 17, 1969, a Friday, the Justice Department filed a civil antitrust suit against IBM, charging violations of Section 2 of the Sherman Act, which first became the law in 1890.

The action was a disappointment but hardly a surprise to members of IBM's legal department. They had been advised by Justice Department officials on New Year's Eve that the suit, long brewing, would indeed be brought.

January 17 was the last business day of the Administration of Lyndon B. Johnson. Ironically, it also was the birthday of Nicholas deB. Katzenbach, former Attorney General and Undersecretary of State, who is now IBM's general counsel.

WHAT THEY'RE SAYING

"The concept of antitrust action as a serious near-term inflation-fighting program is absurd. The Justice Department knows full well it has chosen formidable opponents [IBM and AT&T] who will not roll over and play dead. Litigation will be long and expensive both for the companies and the Government. And in the end it is doubtful, at best, that a Government victory would lead to lower prices."

Financial World, December 1974

"Antitrust remains vital to the American economy. Competition should be allowed to operate unless the weight of specific contrary argument is overwhelming . . . A more open and competitive system, with an independent and arms-length relationship between business and Government, is crucial to the health of both the economy and a free political democracy."

The New York Times, November 25, 1974

"IBM has been calm and acted deliberately in the face of this challenge [the Justice Department suit], in part because the company has been through the antitrust mill before and knows the way, but also because of the importance of the principles involved . . . Does size alone determine Justice Department action? Is efficiency to be penalized? Must a company share its patents with less capable rivals? All of these questions have been asked before . . . and with the IBM decision they may be answered."

Newsday, November 17, 1974

". . . some Americans currently have a 'death-wish' mentality which many in government seem determined to act out until dream becomes reality. Why else would a nation spend billions to salvage weak companies . . . and commit taxpayer multibucks in attacking efficient giants such as AT&T, IBM and Xerox, which are world standards for innovation and excellence."

Forbes, December 15, 1974

"Under U.S. antitrust laws, the nub of the Justice Department problem is to prove not only that IBM monopolizes the computer market, but also that it actively sought its current dominance: in other words, that its commanding position is not simply a result of natural superiority or the independent blunders of its competition."

The London Times, May 1973

essing has come to permeate every aspect of our national life from the ghetto to the moon."

On the surface, the case remained in a dormant state (although IBM was hard at work preparing its defense) until early in 1972 when it was assigned to a specific judge, David N. Edelstein, chief judge of the U.S. District Court for the Southern District of New York. Judge Edelstein was no stranger to IBM. He signed a 1956 consent decree* which ended a Justice Department suit against the company, a suit charging that IBM had monopolized the market for punched card equipment.

Under Judge Edelstein's prodding, the case began to move. In September of 1972, he asked the Justice Department to tell the court, by October 16, what remedy it sought for IBM's alleged monopoly. He said the case, as originally filed, was so broad that it tended to provoke undue speculation over the issues.

The Justice Department then proposed "tentative" remedies for IBM's alleged monopoly:

● IBM computer operations should be split into several competing entities;

● No "predatory" pricing;

■ No bundling (that is, charging a single price for equipment and various related services); and

■ No premature announcements of products.

Should it win, the Justice Department said in a memorandum to Judge Edelstein, it would seek to "dissipate the enormous market power of the current IBM manufacturing and marketing structure."

In other pretrial activities, IBM asked the court for a separate trial on the issue of market definition, and for permission to admit as evidence a census taken of the data processing industry for the CDC suit under the authorization of Federal District Judge Philip Neville. Both motions were denied by Judge Edelstein.

Another important issue centered on certain documents that were inadvertently turned over to CDC during the tremendous effort of producing 17 million documents in three months. IBM claimed the documents to be privileged because they involved a lawyer-client relationship, and its position had been sustained by Judge Neville in the CDC case. Judge Edelstein ruled that the Justice Department had the right to see the documents in question, and after

The Antitrust Division of the Justice Department charged that IBM had monopolized the general-purpose digital computer market, asked that it be ordered to refrain from certain specific marketing practices, and proposed that IBM's business undergo "such divorcement, divestiture and reorganization" as might be necessary to restore competition to the computer market.

The suit followed by about a month a private antitrust action filed against IBM by the Control Data Corporation (later settled out of court), and, indeed, much of the material gathered as evidence by the Justice Department was to come from CDC's own extensive pretrial discovery efforts.

After the Justice Department suit was announced, it was said in the press, and privately by lawyers, that the case would take literally years to come to trial. The issues were complex, the potential of the outcome momentous.

"The search in the courts for answers ... could result in major changes in the interpretation and enforcement of U.S. antitrust laws," *The New York Times* commented. "How the questions are resolved will have grave effects far beyond the industry, for the computer is no simple tool, and information proc-

Judge
David N. Edelstein

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* A consent decree is an agreement between the Department of Justice and a defendant, accepted by a court, in which the defendant agrees to abide by certain rules set forth by the Department of Justice. It in no way constitutes an admission of guilt, and cannot be used as such in a court of law.
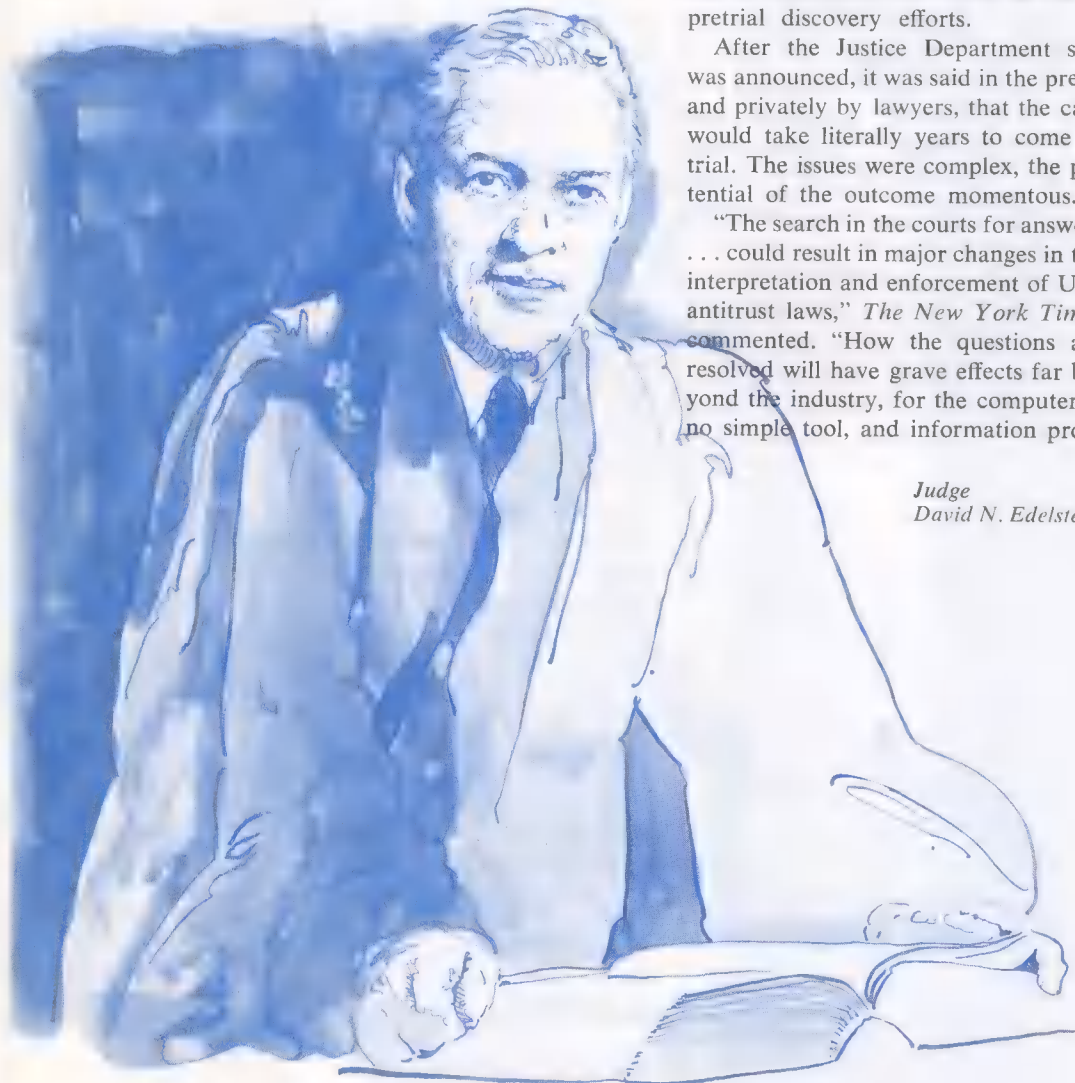
legal maneuvers involving several appeals, IBM was required to turn them over.

In November of 1973, Judge Edelstein set a date for the trial to begin—October 7, 1974—and indicated that both parties should make every effort to be ready for trial at that time, ready for what was described as the "biggest and most complex antitrust litigation . . . ever brought into the court system."

As the specified day drew closer, attorneys for both sides met frequently to set the stage. Hundreds of witnesses were "deposed" (interviewed under oath by lawyers), millions of documents exchanged, a new industry census undertaken, and witness lists drawn up and expanded. A thousand-and-one administrative details never seen on the Perry Mason show were agonized over and resolved.

Then, last July 24, the Justice Department asked Judge Edelstein to delay the opening of the trial, and in a hearing the next day, the delay—until after December 2—was granted.

Before Judge Edelstein, on December 5, set a new date for the trial, February 18, several legal maneuvers had added even more complexity to an already labyrinthian suit.

IBM, which had sought census data about computers from the Commerce Department and had been refused, asked the court to dismiss the suit. "The Government may not prosecute an action to enforce Federal law," said the company in its motion, "and assert that it is privileged to withhold evidence material to defense of that action."

IBM also objected strenuously to a motion by the Justice Department to amend the original complaint by, essentially, adding new issues. Among them: the alleged monopolization of the computer peripherals marketplace, based on alleged actions occurring long after the original complaint was filed.

Such new issues, contended IBM counsel, could extend the final resolution of the case for a very long time, and the delay would result in substantial harm to both IBM and the public.

However, in early January, Judge Edelstein granted the Justice Department's motion for an amended complaint. As of mid-February, he had not ruled on the Commerce Department matter, but is expected to before the trial begins.

The trial will be a long one. Judge Edelstein himself, who will hear the case without a jury, said that the actual taking of testimony and the arguments could last more than a year. He said further, that it would take him months after that to reach a decision. ■

Foley Square in downtown New York City is a mini-park dotted with small trees and green benches.

Named after Thomas (Big Tom) Foley, a New Yorker whom one history book refers to as Governor Al Smith's "political godfather"—it is overlooked by three large buildings: the United States Courthouse, the United States Customs Court and Federal Building, and the County of New York Courthouse.

Going to and coming from these imposing structures is a stream of lawyers, litigants, jurors and prospective jurors, court employees and officials, witnesses, and assorted other participants in legal actions that range from the minuscule to the momentous.

It is in the United States Courthouse, granite-faced, 30-stories high, fronted with 10 tall Grecian columns, that IBM and the Justice Department will square off in what may be the longest and most complex antitrust trial in American legal history.

The courthouse is the home of the United States District Court for the Southern District of New York, the largest (in number of judges) and busiest (in number of cases) in the entire Federal Court system.

Its chief judge, David N. Edelstein, will hear the case without a jury. (A chief judge in a district court is that judge under 70 who has the most seniority. In addition to his own case load, he has substantial administrative responsibilities.)

Judge Edelstein, a 65-year-old native New Yorker, who has been a district judge since 1951, is more than familiar with the leading attorneys for both sides in the Justice Department-IBM suit. They and the judge have met many times in pretrial conferences designed to resolve the hundreds of problems—some major, many minor—which occur in a legal proceeding of this complexity.

IBM's chief spokesman in the courtroom will be Thomas D. Barr, a member of the New York City law firm of Cravath, Swaine & Moore, which has represented IBM in many matters over the years.

Presenting the plaintiff's case will be Raymond M. Carlson, a veteran attorney with the Antitrust Division of the Department of Justice.

The United States Courthouse in Foley Square is also home base for the U.S. Court of Appeals for the Second Circuit, and altogether, contains nearly 30 courtrooms. The halls of the building are of marble taken from all of the states except Hawaii and Alaska. On the lower floors, the occasional rumble of a subway passing underneath is a reminder that the nation's largest city throbs with life outside the courthouse.

The courtrooms themselves are fairly similar, although some are too hot in the summer and others suffer from acoustical problems aggravated by jackhammers, the downtown express to Flatbush, and strange, indefinable rattles and squeaks.

In the front of each courtroom is the American flag on a staff surmounted by an eagle. When the judge enters, whether for a formal courtroom session or a conference, the bailiff intones the traditional, "All rise."

So it will be when the long-awaited trial, the Justice Department vs. IBM, finally begins. ■

Q&A

What law, or laws, does the Justice Department say IBM has broken?

Section 2 of the Sherman Act. Section 2 says that it is illegal to "monopolize, or attempt to monopolize" interstate or foreign commerce. The Justice Department maintains that IBM has monopolized the market for general-purpose digital computer systems. The suit is a civil one. This means that injunctive relief but no criminal penalties are involved.

The law upon which the suit is based, the Sherman Act, is the nation's first Federal antitrust law. It was passed in 1890 at a time when people were alarmed about the rise of "trusts," large combinations of companies—formerly competitors—who sought to control certain segments of the market at the public's expense.

Under the Sherman Act, what's the distinction between a criminal and a civil suit?

In a criminal suit, companies are alleged to have deliberately set out to hinder competition through acts considered to be violations, by law and precedent. For example, a group conspires to fix prices or agrees not to sell in each other's territory.

A civil suit is brought by the Justice Department to correct a situation it feels is hindering competition in the marketplace.

Can the Justice Department collect damages?

No, and it does not seek damages. If the Justice Department wins a civil suit of this kind, the court has great leeway in ordering defendants to do whatever the court thinks is necessary to create a more competitive environment. Sometimes, the court prohibits certain marketing practices or orders a company to divest itself of a subsidiary. In a few cases, the court has ordered that a company be broken up into a number of smaller, competing firms.

Is there confusion between criminal and civil antitrust suits?

Yes. Many people don't realize the difference. And, when they hear that IBM is being sued, some people assume that IBM is involved in a criminal antitrust action.

This, of course, is not the case. The suit against IBM is a civil suit. The Justice Department maintains that IBM has so dominated the market that competition is stifled. The issues in the case have to do with share of the market, the condition of the marketplace, whether it's easy to enter, compete in, grow in.

What practices does the Justice Department say IBM engaged in to achieve its so-called monopoly?

When the Antitrust Division of the Justice Department filed its suit against IBM in January 1969, it cited:

- A practice known as "bundling"—quoting a single price for hardware, software, and related support for data processing customers;
- The introduction of computers with "unusually low profit expectations" to keep competitors from entering the field;
- Announcing machines that IBM probably could not deliver by the dates announced;
- Granting discounts on computers to educational institutions—a policy, the Justice Department claims, that had an eventual impact on purchasing decisions in the commercial market.

What sort of relief is the Justice Department seeking?
It has proposed that IBM computer operations be split into
several competing entities; no anticompetitive pricing; no
bundling; no premature announcement of products. If it
won, the Justice Department said, it would seek to "dissipate
the enormous market power of the current IBM manufac-
turing and marketing structure."

**Have there been any changes in the Justice Department
complaint since it was filed six year ago?**
In November, the Justice Department filed a motion to
amend its complaint. It sought to add some charges—in
particular, that IBM had monopolized the market for com-
puter peripherals that plug into IBM computers, and that the
company had deliberately fostered an environment which
favored leasing over purchasing—a tactic allegedly to the
benefit of resource-rich IBM.

IBM objected. IBM counsel maintained that the company
couldn't be expected to go along preparing a defense for
one set of issues, then suddenly have to get ready for another.

In early January, Judge Edelstein granted the Justice De-
partment's motion for an amended complaint, and that
complaint was filed with the court. ■

Each state has at least one Federal trial
court, which is called a United States
district court.

New York, where the Department
of Justice-IBM trial will take place, has
four. They are the U.S. District Court
for the Southern District (New York
City), Northern District (Albany),
Eastern District (Brooklyn), and West-
ern District (Buffalo and Rochester).

As a general rule, only the following
cases may be tried in ■ Federal district
court:

■ cases involving Federal law;
■ cases between citizens of two differ-
ent states where the dollar amount in-
volved is more than $10,000; and
■ cases in which the United States is
suing or being sued.

U.S. district court judges are ap-
pointed by the President of the United
States with the advice and consent of
the U. S. Senate. They hold office "dur-
ing good behavior." As a practical mat-
ter, this means that they hold office for
life or until they resign or retire.

The U.S. District Court for the
Southern District of New York has 25
judges now sitting and two vacancies,
and it has six senior judges.

Each state is also within one of the
11 Federal judicial circuits in which

the circuit court is the appellate court
—responsible for reviewing trial-court
determinations to decide whether the
law was applied correctly.

A typical trial court proceeding will
involve directly a judge, lawyers, wit-
nesses, exhibits, a court reporter, and
often a jury. But a typical appellate
court proceeding involves directly only
several judges and lawyers.

For example, when IBM appealed the
decision in the Telex case, that appeal
was heard by a three-judge panel from
the U.S. Court of Appeals for the 10th
Circuit, which is based in Denver.

Until late last year, an antitrust suit
brought by the Department of Justice
and tried in a Federal district court, if
appealed, automatically went to the
Supreme Court, which could hear the
case or not, as it chose. New legisla-
tion, signed into law this past Decem-
ber, makes it possible for such a case to
be appealed to a Federal circuit court
of appeals.

The appeals court which would
have jurisdiction over the upcoming
Department of Justice-IBM case is the
U.S. Circuit Court of Appeals for the
Second Circuit, located in the same
Foley Square Courthouse where the
trial is scheduled to take place. ■
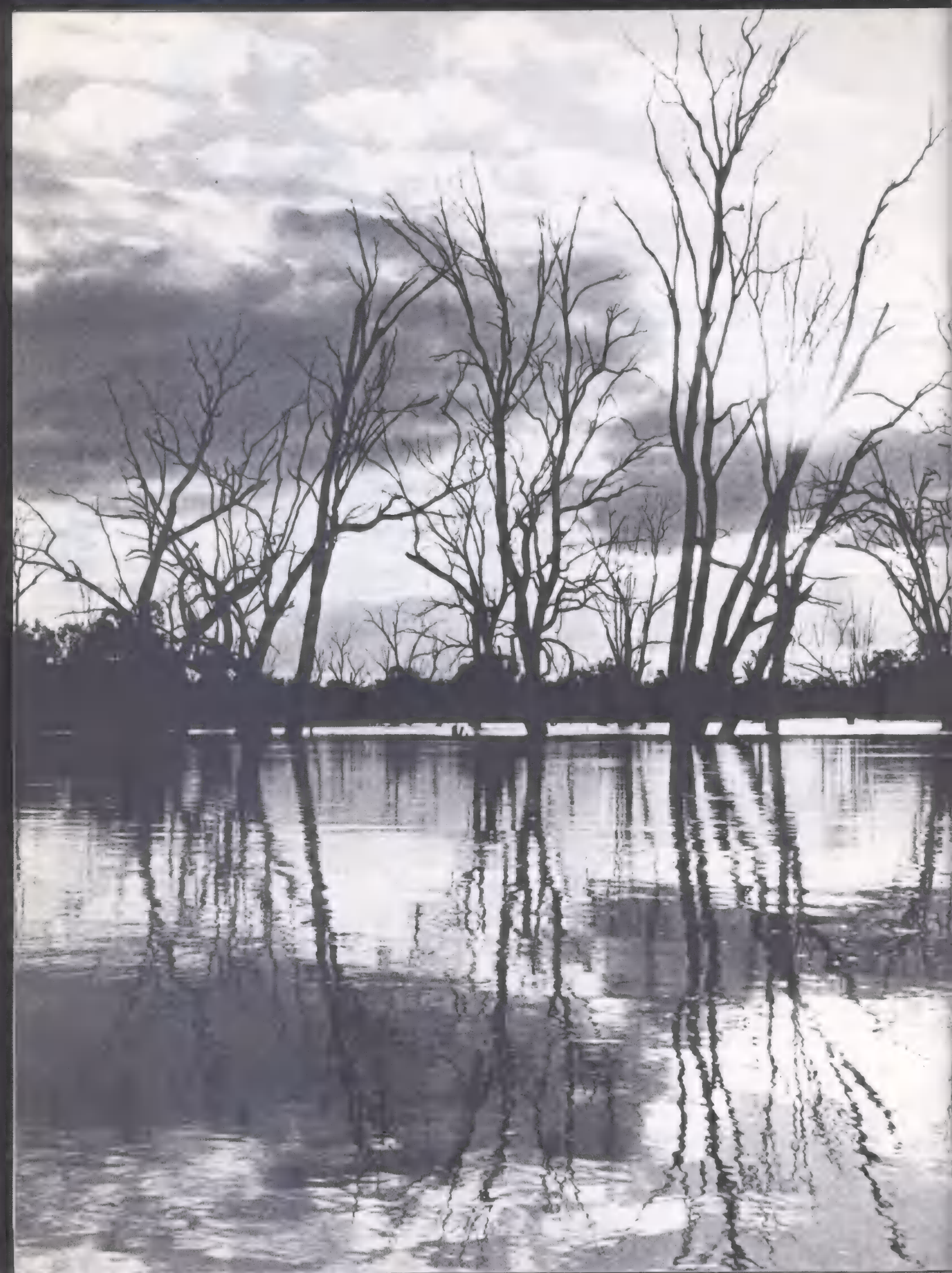
DOWN UNDER

For IBM Australia, it's frontierland

'One of the toughest markets anywhere.' That's how Australia is characterized by Allan Moyes, IBM's managing director there. The characterization is apt, for this island continent of nearly 3 million square miles and 13,100,000 people has a potential not lost on IBM's competitors from the U.S., Japan, and Europe. In Australia today, there are roughly 100 computers per 1 million people—less than one-third the ratio in the United States. And the need for data processing and modern office techniques to help distant business and government offices operate is great and growing.

IBM has been there since 1932, when 10 people sufficed to sell time recorders and computing scales. Today, nearly 2,000 men and women work at the Sydney main office or in the eight branch offices located in all state capitals and major regional centers. They are part of an organization ranked among the top 50 Australian companies. And in IBM's Americas/Far East Corporation, they are fourth in gross revenue, surpassed only by Japan, Canada, and Brazil.

Last year, even though the economic barometer fell and nationalism put the burden of proof on international companies, IBM Australia achieved all its assigned quotas and reached a new high in net DP revenue.

Confidence in the future is anchored by Aus-

The River Murray forms one of the mightiest river systems in the world. Some 350,000 people live along its banks, cultivating 9.3 million acres of land and producing half of Australia's total farm output. IBM is working on a computer model that will help control its flow and improve irrigation.
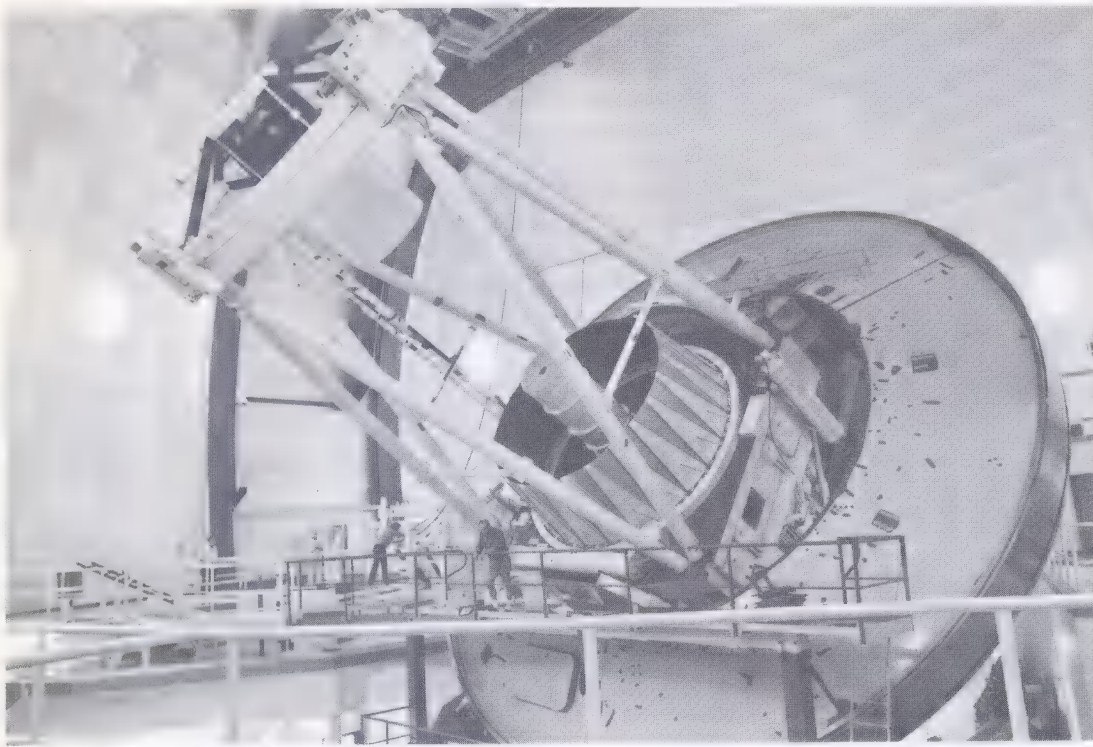
tralia's strong industrialized base (manufacturing now accounts for one-fourth of the Gross National Product), its sizable exports of wool, wheat, sugar, and meat, and its recently discovered mineral deposits. "Data processing," says Allan Moyes, "is seen as a prime way of getting the nation's business done. We will continue to prove that this is where we excel."

On these pages, Henry Strasburger, IBM *Australia's media relations manager, reports on his country and his company.*

Spring "down under" comes in October. Snow melts on the deserted slopes of the Thredbo and Perisher ski resorts. On the world's driest continent, with an average annual rainfall of less than 20 inches, the event is not without importance.

From the southern end of the Great Dividing Range in the Snowy Mountains, you can drive down the twisting Alpine Highway to the plain below and past Tom Groggin Farm. Through the farm's green paddocks flows an icy stream. Downstream, it will become Australia's mightiest body of water— the River Murray.

The Murray flows westward 1,200 miles between the states of Victoria and New South Wales, then for another 400 miles through South Australia before discharging into the sea.

A large percentage of the Murray's water is pumped out to extensive irrigation areas along its banks. Along those same banks live 350,000 people who cultivate 9.3 million acres of land

A country long noted for its sheep stations and undeveloped wilderness, Australia has increasingly turned its attention to science and technology. In New South Wales, for example, the Australian Department of Education and Science and the U.K. Science Research Council have constructed one of the world's most advanced optical telescopes.

and produce half of Australia's total farm output.

Over the years, both secondary and primary industries have grown up throughout the Murray Valley: flour, dried fruit, livestock—and three out of every four bottles of Australian wine.

If the Murray were to run dry, the farms and industries would suffer alike. The valley would become like the country around Giles near the center of the continent and Australia's so-called "dead heart," where all is desert beyond the perimeter of sprinkler systems fed from artesian wells.

Rainfall in the Murray Valley can be as sparse as five inches a year, and oldtimers, downstream from Victoria, remember 1923, when they could stand with one foot on each side of the stream.

You can't do much about the rain, but you can about the Murray. Clearly, control of its flow and the wise distribution of its resources and tributaries are vital. This is the responsibility of the River Murray Commission, under a state and Federal agreement. It is also a key project at the IBM Systems Development Institute in Canberra, the nation's capital, and one of the many examples of IBM Australia's

partnership in progress with government and industry.

"Working with the commission," says Dr. Geoff Ford, SDI director, "we are developing a computer model which will represent the behavior of a 75-mile reach of the Murray almost immediately downstream from the Hume Reservoir. Our aim is to reduce wastage, combat flooding, and improve the supply of water to satisfy the irrigation needs of farmers."

The computer model will show how best to operate the river-flow control points, and how to develop more extensive reaches of the Murray, thereby coping with the long-term problem of water resource management.

"One of the reasons for locating the SDI in Canberra," Ford points out, "was to demonstrate to the Federal Government that IBM can help solve some of the problems Australia has on a national scale."

That scale is vast, for this is an island continent almost the size of the U.S. Distances separating the state capitals of Perth (Western Australia), Adelaide (South Australia), Brisbane (Queensland), Darwin (Northern Territory),* and Hobart (Tasmania)— and the IBM locations in these cities— are measured in thousands of miles.

Remote locations where customers may need urgent help are still further away and often isolated by poor travel connections. The market therefore is highly fragmented, and the challenge of providing adequate support across the country a stern one.

Teleprocessing helps. It is shrinking operating distances between head offices of companies and their outlying branches and aiding in the centralizing of administrative procedures. Networks of IBM terminals are multiplying in manufacturing organizations, finance houses, and airlines. Australia

*When the Christmas cyclone hit Darwin, the only resident IBMer there was DP customer engineer, Graeme Winter, and his family. Although their home was demolished, they were unhurt and were evacuated from Darwin. Damage to IBM systems installed in Darwin was slight. IBM Australia contributed $10,000 to a New Year's Day telethon appeal which, nationwide, raised more than $3-million for cyclone victims.

Customer engineers from countries in Southeast Asia train at the IBM Education Centre in Lidcombe, near Sydney. These CEs are from Brunei, Indonesia, and Korea.

Italy's Olivetti is a tough competitor for Office Products.

In December 1974, there were an estimated 2,770 computers installed and 760 on order, according to the Department of Labour. When related to Australia's Gross National Product, the amount of computing power is still lower than in most developed countries —less than half of Germany's, for example.

Nonetheless, Australia is a market of great potential and strength. It is rich in resources and, with its ample stock of coal, natural gas, and petroleum, largely immune to the energy crisis besetting many nations. Its potential for uranium is great, and huge natural gas resources are only just being tapped.

The high-grade iron ore deposits of Western Australia are among the world's largest. Close to 30 million tons are sent by rail to Port Hedland, in the northern part of the state, for domestic use and for shipment to Japan and Europe.

Consolidated Industries, the leading glass manufacturer, is linking interstate plants to company headquarters in Melbourne. Industrial Acceptance Corporation, a finance house with its head office in Sydney, helps car dealers as distant as Perth speed sales through an on-line enquiry service.

"Australia is like a microcosm of the world's markets," says Allan Moyes, general manager since 1958, now managing director, and also general manager of the Australia-New Zealand Region. "A kind of pilot plant for computer makers to have a try and see how they go."

IBM's oldest competitor in Australia is ICL, a British computer maker. Among the U.S.-based competitors are Honeywell and Control Data, Burroughs, NCR, Univac, and Digital Equipment. Germany's Nixdorf concentrates on the lower end of the hardware spectrum. Japanese competition comes from FACOM Australia Limited.

Mount Newman Mining Company Pty. Ltd., which does much to push Australia's overseas reserves, operates a giant mining project with the help of an IBM System/370 Model 135. The Model 135 not only handles accounting and inventory, but is also used for mine planning and analyzing geological data.

Even with such natural assets, Australia has been buffeted this past year by the headwinds of economic instability that seem to be circling the world.

Australia is currently in a business slump that rivals its 1960-1961 recession. Inflation is at 20 percent, credit tight, and the balance of payments in the deficit column. Last year the Australian dollar was devalued by 12 percent. (It now equals U.S.$1.31.)

All of this has had a somewhat sobering effect on IBM Australia's marketing outlook, but the company remains confident about what's ahead.

"We took last year's economic uncertainties in stride and had an outstanding year," notes Frank Barr-David, director of DP marketing. "We installed a record backlog of systems, some of them representing the most complex hardware and software. This year, the number of large and complex systems should increase, especially those using the new terminal products."

Barr-David foresees "some shifts in the industry mix," with the outlook particularly good for the public sector and finance industry. "Banks and life insurance offices, with their tradition of long-term planning, and the prospects of rising costs, will be looking to technology to keep down operating expenses."

In manufacturing and distribution industries, he estimates a weaker market because of their sensitivity to economic fluctuations.

Office Products, coming off a strong performance in 1974, is optimistic. "Last year was a vintage year for us," says OP Director Tony Bowra. "Our sales were up 70 percent, and the IBM Copier, in its first year on the Australian market, was a great success, finishing up at 108 percent of quota

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SDI mission: Solutions for Australia

Like the River Murray, IBM Australia's Systems Development Institute has been known to branch out as it moves ahead. Its current range of projects is both wide and significant for Australia.

Now in its sixth year, SDI shares a two-story building on Canberra's Northbourne Avenue with an IBM branch office. Its 24 people include 9 systems engineers and a 14-member staff for a computer center that will soon house a System/370 Model 158. Its director since September 1972 has been Geoff Ford, who holds a bachelor of science degree and a Ph.D. in animal genetics. The SDI mission these days includes the following:

▪ Working with the Australian National Library to provide distant population centers with direct access, by computer, to the library's wealth of information.

● Developing, with the Australian Government's Bureau of Transport Economics, a modeling system for the scheduling of single-line railways.

▪ Developing a computer model of a sugar factory to help that key industry modernize and expand.

▪ Spurring the use of time-sharing terminals throughout Australia through a new data base/data communications group.

● Developing the skills of systems engineers in both Australia and New Zealand.

SDI people are also involved in pollution studies, education, and, of course, control of the unpredictable River Murray.

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despite strong competition in the marketplace."

One of OP's more spectacular recent achievements was the sale of 301 IBM Selectric Typewriters to the Queensland Department of Education. The machines have been delivered to 181 schools throughout the state.

One application certain to prevail during 1975 is TAB. That stands for Totalisator Agency Board, a formidable name for a formidably exciting business.

Off-track betting has been legal in Australia since the early 1960s and is supervised by TAB. In all, there are 15 racing tracks in the state capitals and nearly 200 in country districts, including courses for trotters and greyhounds. IBM systems keep track of punting (betting) information flowing in from a network of TAB agents throughout Western Australia and New South Wales. This year, that network will be augmented by 250 newly designed terminals. The terminals were developed for Australia at the IBM labora-

tories in Toronto, and La Gaude, France. They provide timely and convincing evidence of the international resources that can be brought into play for the benefit of the local market.

Such evidence is particularly welcome now because economic nationalism has been simmering for some time in Australia. The air is filled with criticism of "multinationals" from all sectors—labor, the press, academia, and political parties. The catalog of charges includes tax evasion, price-rigging, and the exploitation of cheap land.

IBM Australia's management works hard to keep the company clear of these storm clouds. Everything possible is done to emphasize IBM's contribution to national progress as a high-technology company; its stress on local management; and the financial structure of the company with its high retention of income within the country.

"Our goals and Australia's are one," says Allan Moyes, "and we are not only asserting that fact but demonstrating it in everything we do." ▪

NORTH COUNTRY

For this husband and wife team, the IBM office is in the basement

by Patricia Brooks

"Neither snow, nor rain, nor heat, nor gloom of night"—nor even a gas shortage—keeps IBMers Barbara and Stan Niekras from reaching their General Systems Division office each day. That's because the two-person office is located in the basement of their own home. The two-story, white, frame ranch is in Gouverneur (pop. 4,574), an upper New York state village near the Canadian border.

And it may be the only IBM office in the world that fronts on the fairway of a golf course and has a telephone answering device that responds to your call automatically: "Hello, you've reached the offices of the IBM Corporation's General Systems Division in Gouverneur, New York . . ."

Stan Niekras' job as associate marketing representative and his wife Barbara's as systems engineer for GSD's

Watching the news roll off one of the *Watertown Daily Times*'s nine wire service machines are Stan Niekras and the daily's managing editor, John B. Johnson, Jr. The Watertown newspaper (circulation 43,000) uses four IBM systems: an 1130 for hyphenation and justification in setting type; two System/7s —one to collect, sort, and store news stories from the wire services (it was the first U.S. newspaper to do this and is now visited by many U.S. papers, including *The Wall Street Journal*), the other to enter classified ads via video display terminal; and a System/3—used by the paper's TV station to schedule time, prepare a log, handle billing, invoicing, and statements analysis.

Barbara Niekras pays a call on the Standard Shade Roller Corporation, the largest manufacturer of shade rollers in the U.S., which is located on the banks of the St. Lawrence River in Ogdensburg, N.Y. Standing next to the conveyor belt of shade rollers, she talks with Fern Beauchamp, a programmer, and Albert Winans, controller. The 75-year-old company uses an IBM System/3 Model 6 for order entry and billing, goods inventory control, sales analysis, and payroll, and intends to add production control. The entire plant runs on piecework (50,000 shade rollers are produced per day), so the payroll is complex and "ready-made for the System/3," says Winans.

When Barbara and Stan Niekras are through working in their "IBM GSD Gouverneur Sub-Office" (as the sign over their work table reads) in the basement of their house, they walk a step or two to the next room, where they relax with books, TV, or their stereo equipment, in the company of the family mascot, a basset named Sophie. The 11' x 16' office is compact—filled with IBM files, cabinets of IBM brochures, side-by-side desks and phones, and the ubiquitous flip chart. "In the North Country," Stan says, "your customers become your friends. They drop by our home office to discuss a problem over coffee. In summer, we take them outdoors to our 'IBM recreation area' by the swimming pool."

Syracuse branch keep them going—often in opposite directions—from early morning until late evening. Their paths usually don't cross until dinnertime, when they relax and exchange news of the day's developments. "Shop talk is inevitable," says Stan, "because it's both our lives."

According to Jim Dezell, GSD vice president, sales: "Most of our marketing people, of course, work out of branch offices in large cities. But those who cover remote areas demonstrate the resourcefulness and self-motivation necessary to successfully manage these far-flung territories."

Stan, 31, an electrical engineering graduate of Pennsylvania State University, began working for IBM while still a student. He joined the company after graduation in 1968. Barbara, 30, majored in mathematics at Stephens College (Columbia, Mo.) and also joined IBM after graduation the same year. She and Stan met during an employee training program at the System Development Division in Endicott and married two years later. Stan then spent four years in the U.S. Air Force. During that time, Barbara, who had been working as a mathematician doing specialized programming for a development engineering group, transferred to the Utica branch office as a systems engineer.

As relative newcomers to the GSD marketing organization, the Niekrases have been in Gouverneur less than two years. Their territory, known locally as the North Country, covers 7,000 square miles that encompass four counties bordering the St. Lawrence River and Canada. Winter often begins in October, and 30°-below-zero weather is not uncommon. Six-foot-high snow-marking poles, which serve as guides for the snowplow after blizzards, line the country road that leads to the Niekras house.

Stan, a Pennsylvanian, and Barbara, a native of Binghamton, N.Y., are not bothered by cold and isolation, but they *are* challenged by the territory's uniqueness, its potential for IBM sales ("1974 was a great year," says Stan), and the diversity of their accounts. These include a tombstone-cutter, a retail drug chain, the county welfare department, an agricultural college, several hospitals and banks, an aluminum plant, a newspaper and television station, a multinational shipping and construction company, and a wholesale grocer.

Many accounts are 100 to 150 miles apart (Stan averages 3,500 auto miles per month), so four to five calls are about par for a day. "When a company gets a System/3," Stan explains, "it's like membership in an exclusive club. They know that the more sales we make, the more local support they can expect. So they become our biggest boosters in spreading the word and helping me sell. And the recently announced System/32," (see page 33)

he adds, "is just made for our kind of territory."

Joe Wignot, the Niekrases' marketing manager in Syracuse, 110 miles from Gouverneur, believes IBM's continuing success in the North Country is the result of strong team work. In addition to Stan and Barbara, there is another SE, Joe Faucher, based in Norfolk, and eight customer engineers, located throughout the large territory.

"In a way," says Barbara, "we're our own day-to-day managers. We're probably harder on ourselves than someone else might be. We have to organize, schedule, plan ahead, and anticipate problems. It's certainly helped us develop self-discipline and resourcefulness."

Stan adds: "In this remote territory, you have to be a self-starter. Otherwise, you'd never make quota." Proof of their own self-starting hangs on the office wall—a 1973 Hundred Percent Club certificate and a Systems Engineering Symposium certificate—his and hers—reminders of a single year's work in the North Country. They are now shopping for frames for the certificates they earned in 1974. ∎

Patricia Brooks, a freelance writer and frequent contributor to Think *has authored numerous articles for travel publications, based on trips around the world. In doing this story, she made her first trip to Gouverneur, N.Y.*

Joe Wignot, GSD Syracuse marketing manager, greets Barbara and Stan Niekras on one of his flying trips to their territory. In good weather, he flies a rented Cessna (flying time: one hour), but during the North Country's long, cold winter he drives—a two-and-one-half-hour ride from Syracuse. Wignot makes the trip once every two weeks, weather permitting.

Stan Niekras picks up the morning's IBM mail—one of his most valued tools in operating the Gouverneur, N.Y., IBM office, along with the telephone, U.P.S. deliveries, and a good supply of gas. Anticipating last winter's gas shortage, Stan installed a 300-gallon gas tank behind his house. He uses about that much gas each month covering his 7,000-square-mile territory.

How IBM Is Answering the Justice Department's Charges

On January 15, attorneys for IBM handed the judge in charge of the Justice Department suit a 374-page document blandly titled 'Pretrial Brief for Defendant.'

The defendant, of course, is IBM, and the contents were far from bland. In its document, the company answered in detail charges brought against it by the Justice Department six years ago under Section 2 of the Sherman Antitrust Act.

The Justice Department had accused IBM of competing unfairly on three basic counts:

- 'bundling,' or offering various data processing services for a single price;
- providing educational discounts and making contributions to educational institutions;
- producing 'fighting machines,' announced, presumably, for the sole purpose of attacking competitors' products.

Earlier in January, the Justice Department had been granted a motion, allowing it to amend that original complaint with additional charges. It filed those charges on January 14. Here IBM was charged with having monopolized the so-called plug-compatible peripherals market, and fostering a leasing, rather than purchase environment.

The excerpts which follow do not deal with those new charges. They will be answered in a supplementary brief.

'This case is an attempt by the Antitrust Division to reverse the Sherman Act, to change its whole thrust and purpose so that it fetters rather than encourages competition.'

Part I: Introduction and Summary

We start with the central theme of IBM's defense which we believe is of the greatest importance: that this action is at bottom an attack on IBM's success through competition on the merits and a repudiation of sound antitrust precedent and policy.

This case is an attempt by the Antitrust Division to reverse the Sherman Act, to change its whole thrust and purpose so that it fetters rather than encourages competition. That approach, if adopted by the Court, would have a devastating effect on the consumer, on the national interest and on the future of antitrust enforcement.

* * *

In a period of rising prices and escalating costs, the EPD industry is virtually alone in giving consumers better products at lower prices— products which, in turn, enable industry and government to reduce their costs, improve the efficiency of their products and services, reduce waste and pass on savings to their customers as well.

Incredibly, it is this industry—with this unparalleled and uncontroverted record of benefit to the consumer and importance to the national interest—which the Department of Justice now seeks to "restructure" in massive and dangerous ways. That restructuring, it knows, would slow down technology, deprive consumers of future cost savings, increase inflationary pressures, jeopardize national security, and seriously risk the loss of U.S. leadership to the subsidized competition of European and Japanese producers.

This suit is a direct attack upon the competitive process that is producing those benefits and upon the law which was enacted to protect that process. It is an attack upon new product innovation, superior service and price competition. It seeks to stifle performance improvement and

price reduction, replacing them with an approach which would stop product innovation and stabilize prices for the benefit of competitors—all at the expense of the consumer.

* * *

'This action deviates from relevant precedent in four principal ways.'

1 plaintiff [the Department of Justice] asks this Court to adopt a wholly fictionalized approach to market definition. Its entire claim of monopolization hangs upon its attempt to sell this Court the preposterous proposition that only eight or nine companies compete with IBM —an argument which Government officials knowledgeable in EDP have dismissed as a "myopic mythology." As plaintiff well knows, the truth of the matter is that IBM is confronted with competition from hundreds of companies in the EDP industry.

Plaintiff's own sworn responses to interrogatory . . . admit that more than 90 companies have manufactured general purpose digital computer systems installed in the Federal Government. And as plaintiff knows, IBM's internal commercial analysis records demonstrate that there are not eight suppliers of general purpose digital computer systems (as plaintiff would have the Court believe), but over 90 such sup-

pliers. Moreover, those records and the census of the EDP industry jointly taken by the parties in this action reveal that IBM competes not only with those "systems" suppliers, but with hundreds of suppliers of EDP products and services including peripheral suppliers, leasing companies, software suppliers and service companies.

* * *

. . . Here, plaintiff hopes to exclude from the market most of the companies which actually compete with IBM by (1) contriving its market not around a product or industry but around its own unique definition which, after six years of discovery, it still cannot support; (2) refusing to define what particular products are included in its "system"; and (3) asking the Court to accept its assurance that, whatever products are in its "system," there are only eight or nine suppliers of them in competition with IBM. As soon as one faces the economic reality of who competes with IBM in the EDP industry, plaintiff's claims crumble.

2 plaintiff's claims of monopolization ignore the many economic factors courts have always applied in assessing the competitiveness of an industry. Plaintiff makes no attempt to deal with the factors of "growth" or "technological change". . . Plaintiff likewise ignores the youth of the EDP industry, the continuing entry of new competitors, IBM's declining share of EDP revenues, and the remarkable performance of the industry in developing new products, providing excellent service and reducing the cost of data processing.

Plaintiff seeks to ignore those factors because

it knows their study, in light of past precedent, will prove fatal to its claims. All significant Section 2 cases have been characterized by one fact: the absolute dominion of a particular producer over an industry over long periods of time.

* * *

Here, plaintiff attacks an industry which produced its first commercial computer less than 23 years ago and which commenced the mass production of computers for widespread commercial use only in the early 1960's. It is a vital, dynamic industry which hundreds of firms have entered during its brief life span.

IBM has won its present position in the EDP industry by dint of vigorous competition with hundreds of firms. Many of them, such as AT&T, Sperry Rand, RCA and General Electric, were far larger than IBM. And many of them, such as Digital Equipment Corporation, Control Data Corporation, Scientific Data Systems and Hewlett Packard, have grown from modest initial capitalizations to firms with EDP revenues of tens and hundreds of millions of dollars. The EDP industry has grown so rapidly that, despite IBM's remarkable success, its share of EDP revenues has steadily fallen.

Most importantly, the EDP industry is one which has been characterized by a remarkable explosion of new products, technological innovations, improved performance and falling prices. It is an industry which has undergone four distinct technological generations in 20 years, in which innovative offerings are virtually a daily occurrence, in which extraordinary levels of service and reliability have been attained, and in which costs have fallen dramatically . . .

On any reasonable appraisal, the characteristics of the EDP industry, in light of past precedent, demonstrate the unquestionable competitiveness and technological progress of the industry.

3 plaintiff deviates from past precedent in claiming that competition on the merits in the form of new product development, superior service and price reduction is a violation of Federal law . . . plaintiff's so-called "fighting machine" claims are at bottom an attack on IBM's development of new products, specifically IBM's revolutionary 360 series. Its "bundled pricing" claims are an attack on IBM's superior service-oriented policy which plaintiff itself concedes benefited EDP users. Its educational allowance claims are an attack on IBM policies supporting higher education—policies which were necessary to the spread of EDP knowledge, made an important contribution to the establishment of adequate university computational capability, and were specifically endorsed by the Federal Government.

* * *

The courts have specifically recognized that competition through "better product," "better service," "keen rivalry" in price, "reduced . . . prices" and "invention and innovation" must be encouraged. In attacking IBM's innovative new offerings, service policies and educational support programs, plaintiff repudiates the teaching of those authorities about the main purpose of the antitrust laws.

4 plaintiff completely ignores—and urges the Court to ignore—the reasons for IBM's success. It makes no attempt to explain in what fashion IBM's considerable success arose from the practices complained of, as for example, the fact that IBM developed a computer (the Model 90) of which 11 were delivered in the United States, or that IBM granted universities an allowance on EDP equipment rather than selling it at full commercial prices. The reason for plaintiff's silence is, we submit, that it knows that IBM's success is due to none of the acts complained of. It is due—and plaintiff also knows this—to extraordinarily successful product development

(particularly the IBM 360 series, which revolutionized the EDP industry), and an unstinting commitment to standards of excellence in serving customer needs.

* * *

Plaintiff's attack on IBM's competitive practices is also a repudiation of many of the practices which plaintiff required IBM to adopt pursuant to this Court's Final Judgment of January 25, 1956 [the Consent Decree]. That Judgment required IBM to:

—limit its lease term (until January 1966) to a maximum of one year or permit the lessee to terminate on three months' notice . . .;

—make its products available for sale at prices which bear commercially reasonable relationships to its lease prices . . . ;

—provide to purchasers of its EDP equipment the same type of service which it rendered to lessees "without separate charge" . . .

IBM has faithfully complied with each of these provisions; has consulted with plaintiff in detail in advance of establishing methods of compliance, and in advance of changes in such methods including its 1969 announcement to price certain services separately. Plaintiff at no point suggested that IBM's compliance did not adequately implement the Judgment.

Yet, now, plaintiff urges the Court condemn as violations of the Sherman Act policies undertaken by IBM in a good faith effort to comply with the orders of this Court . . . Acts taken in compliance with a duly entered order of a Federal court cannot later be held to be violations of Federal law, particularly where, as here, one deals with a statute having criminal sanctions.

As defendant will prove, each of these practices of which plaintiff now complains is also not only responsive to customer demands, but indeed has contributed in no small measure to the increasingly competitive nature of the EDP industry and to its spectacular growth, . . .

* * *

Applying the teaching of past precedent to this case will, we believe, result in IBM's total vindication. IBM's success is not due to any violation of Federal law. It is an achievement based upon the skill and hard work of thousands of IBM employees at all levels of the Corporation. It is the natural consequence of superior effort and competition in a free and evolving marketplace.

* * *

'Here ... plaintiff attacks practices which are not only normal, competitive practices, but also practices which have long been applauded as highly desirable and were and are specifically endorsed by the Federal Government.'

Plaintiff's attack on the process of competition

Plaintiff's attack on IBM's conduct is an unprecedented departure from the policies which have been historically followed in enforcement of Section 2 of the Sherman Act. The handful of significant actions brought by plaintiff involving charges of monopolization have involved exclusionary conduct of a kind clearly distinguishable from normal competitive behavior—conduct such as collusive arrangements among dominant manufacturers to raise prices to consumers or deny raw materials to smaller competitors ...

Here, by contrast, plaintiff attacks practices which are not only normal, competitive practices, but also practices which have long been applauded as highly desirable and were and are specifically endorsed by the Federal Government.

'... Fighting machine ...'

First, IBM is accused of launching so-called "fighting machines." What is a "fighting machine?" Plaintiff never clearly says. At one point, plaintiff suggests this "offense" may be the introduction of new machines "with low profit expectations" ... a novel "offense." At another place plaintiff refers to an "offense" called "acceleration of the announcement" ... Stripped of plaintiff's inflammatory verbiage, this accusation boils down to an incredible "charge" that IBM developed, manufactured and marketed new and improved products in response to customer needs and competitive efforts. Specifically, plaintiff complains that IBM's development and marketing of the "entire 360 Series," and separately,

the 360 Models 44, 67 and 90, constitute a violation of Federal law.

The 360 Series may be the most important and successful product announcement of this century. Certainly, it was the most significant product in the development of the EDP industry and of IBM. System/360 embodied fundamental technological advances in hardware and software. System/360 required an enormous commitment of IBM's resources and assets. IBM's management "bet the company" on the success of System/360 in the very real sense that had that family of products not been successful in the marketplace, IBM would have been destroyed or very substantially injured. In short, System/360 should be the model of the best type of competitive conduct which our system can produce.

* * *

'... Bundled pricing ...'

In some respects this section of plaintiff's trial brief smacks more of serialized fiction than legal analysis ... The simple fact is that IBM offered something better and, as ancient wisdom suggests, customers beat a path to IBM's door. Plaintiff does not claim that IBM should not have offered the "bundle" or that it was unlawful in and of itself. Instead, it appears that the claim is that at some point in the 1960's—when is unspecified—the "bundle" or some part thereof—also unspecified—became unlawful. Like most writing that uses the format of fiction, the purpose is to induce the reader to carelessly accept a view of things which is not real ...

Since the beginning of the EDP industry, IBM has provided a service-oriented approach to the

marketing of its EDP and other equipment. Separate charges were not made for the marketing and service efforts involved. In fact, properly understood, what IBM and other EDP manufacturers sell is principally a service—a method or tool for solving a particular set of problems . . .

That customer-oriented approach was and is an obvious benefit to EDP users. Rather than receiving a box of electronic gear with an open-ended liability for the costs of making it do what it was supposed to, the user received support from IBM for his efforts to use IBM equipment to solve his data processing problems . . .

Plaintiff concedes not only that a service-oriented approach similar to IBM's was so beneficial to users that they "demanded" it, but also that such an approach was a commercial imperative for any company committed to the EDP industry. In plaintiff's words, IBM's provision of supporting service was "essential to market and install a data processing system successfully" because "potential users had little, if any knowledge of data processing by computers." . . .

In short, IBM's service approach was and is, by plaintiff's own admission, not only highly beneficial to EDP users, but a commercial necessity. How, then, can plaintiff possibly claim that the practice is unlawful? . . .

*   *   *

In sum, plaintiff's attack on IBM's service policies, like its attack on IBM's "fighting machines," is at bottom an attack on practices which serve consumer welfare, an attack on the very process of competition. That attack is contrary to sound antitrust policy and based on false assumptions of fact . . .

. . . Attack on IBM's educational support policies

Plaintiff attacks various IBM practices in support of higher education, particularly the practices common in the EDP and many other industries, of allowing educational institutions a discount from the commercial price, of supporting research and of making cash contributions to educational institutions.

Corporate contributions have long been relied upon by educational institutions as a major source of support. Like most American businesses, IBM has since its inception recognized its obligation to contribute to such support. Corporate support of education is not a matter of sim-

ple altruism. It is based on a combined appreciation of the general importance of higher education to industry and the nation, and of more specific interest in particular research efforts at our universities.

*   *   *

Various agencies of the Federal Government that sponsored research at universities and affiliated research laboratories specifically sought to secure the benefit of EDP manufacturers' discounts on equipment used for such research. The Atomic Energy Commission and the Department of Defense took pains to persuade EDP manufacturers to extend educational discounts to equipment used on sponsored research.

*   *   *

What justification does plaintiff advance for asking the Court to condemn these educational policies which the Federal Government so ardently pursued a few years back? . . . Plaintiff repeatedly calls IBM's educational support programs "discriminatory." But plaintiff never identifies a single incident in which an educational institution was deprived of an allowance by any act which could remotely be described as discriminatory, or ever explains in what sense those policies could be said to constitute discrimination.

Plaintiff calls IBM's educational support policies "sales below cost." Again, it provides utterly no factual support for that assertion. The facts will show that IBM equipment sold and leased pursuant to its educational allowance programs made a positive contribution to IBM's profits. Plaintiff's "below-cost" argument thus consists of nothing more than an inappropriate and derisive labelling of corporate contributions and discounts in support of higher education.

*   *   *

IBM's position in the EDP industry is due to one of the most remarkable industrial achievements of our day. It is due to an explosion of innovation, managed with skill to provide electronic data processing users with remarkable levels of performance and reliability and to confer upon the United States a unique advantage in the world economy . . . To condemn that achievement as a violation of Federal law, with all the consequences that flow from such a judgment, would be both unjust to that dedication and profoundly destructive of America's prospects for the future use of electronic data processing technology.

'The evidence, measured against the relevant legal and economic factors, demonstrates that IBM does not, and could not, possess monopoly power.'

Part II: The Issue of Monopoly Power

As this Court has recognized, determination of whether or not a firm possesses monopoly power is a complex inquiry that requires consideration of a variety of factors . . .

In this case, as in no other, the parties have been able prior to trial to amass quantitative and qualitative evidence concerning the conditions in the industry. That evidence has come from competitors and customers alike. The evidence, measured against the relevant legal and economic factors, demonstrates that IBM does not, and could not, possess monopoly power:

1 Direct proof of competition

Direct proof of competition, where it exists, is by definition conclusive that monopoly power does not exist. In this case, perhaps for the first time in a monopoly case that has actually gone to trial, there is substantial direct evidence of competition. The evidence is abundant that IBM is forced to and does compete with its rivals. Indeed, most of the actions complained of by plaintiff are precisely the type of competitive reaction which a monopolist would not be compelled to take.

2 Ease of entry

Unlike any case where monopoly power has previously been found, here there is unrefuted proof of the constant successful entry of new competitors . . .

3 Number and strength of competitors

Proof of strong, independent competitors is so inconsistent with monopoly power that the existence of such competitors is conclusive proof that monopoly power cannot exist; no prior case where monopoly has been found has ever had strong and growing competitors. Here there is undisputed evidence of many strong competitors who are in most cases growing faster than IBM . . .

4 Industry performance

No industry in any previous monopoly case, and no major industry in history, has had the record of constantly lowered prices and constantly improved products that characterize the EDP industry . . . positive proof that the competitive process is working.

5 Youth, growth and technological change

Courts have considered the age and stability of an industry as additional important factors in assessing the competitive or noncompetitive nature of an industry. Although not conclusive, the youth, growth and technological change of the EDP industry are strong additional evidence that no monopoly power exists. No industry ever found to be monopolized has been as young, growing and changing as the EDP industry.

6 Market share and trend

Plaintiff relies heavily on assertions concerning IBM's market share . . . As this Court has recognized, market share is no "holy talisman." In past cases, courts have relied on market share data as evidence of monopoly power only where there was no direct proof of competition, there were no strong and growing competitors, there was little successful new entry and industry performance was lackluster; in such cases, a high market share merely confirms that the competitive process has broken down. Where, as here, direct proof of competition, entry, strong and growing competitors, and outstanding industry performance exists, market share data is essentially irrelevant. Moreover, even the market share data used by plaintiff confirms that no monopoly power exists. Calculated on a basis consistent with prior antitrust cases, IBM's market share is substantially below the market share of any firm held to possess monopoly power . . .

7 Customer sophistication

The fact that EDP customers are strong, sophisticated and capable of selecting among the numerous competitive alternatives being offered further indicates that it would be difficult for IBM or any other firm to obtain monopoly power.

8 Role of the Federal Government

The activities of the Federal Government in the EDP industry—both as the largest EDP customer in the world and as a spur to EDP development—are further facts inconsistent with a conclusion that the EDP industry is monopolized.

9 IBM's profitability

Plaintiff asserts that some inference of monopoly power can be derived from IBM's profitability. This is flatly inconsistent with legal precedent and with the testimony of plaintiff's own economic experts and designated trial witnesses. Moreover, IBM's profits are not out of line with the profits of other successful companies inside and outside of the EDP industry.

10 Product standards

Plaintiff also suggests that IBM has the power to dictate product standards and that this power raises an inference of monopoly power. Plaintiff's novel argument is without precedent. More important, the fact is that standards in the EDP industry are determined by customer demand as one would expect in a competitive industry.

11 Foreign competitors

IBM faces strong and growing competition not only from other United States EDP suppliers, but from a number of European and Japanese companies. These foreign competitors, with the active support of their governments, are entering the United States market in increasing numbers and at an increasing rate and represent both actual and potential competition to all domestic EDP competitors, including IBM.

Newest and smallest computer

System/32 gets a big welcome from the small-business man

by Ernie Bauer

Despite a downturn in the economy, there was good reason to cheer at the January 7 kickoff meetings in 67 General Systems Division branch offices.

The reason: The introduction of System/32, a timely new addition to GSD's product line. C. B. (Jack) Rogers, IBM vice president and division president, told nearly 60 newsmen at an Atlanta press conference: "To describe it in one word, it is 'complete'—complete in every regard. It was developed in our Rochester [Minn.] laboratory by many of the same talented and dedicated people who brought us the System/3."

As Rogers and other GSD officials demonstrated six System/32s for the press in Atlanta, 200 other systems were being introduced at GSD locations and in IBM Canada by some of the 500 persons trained to operate them.

The response to the announcement was immediate and favorable. Reports Jim Dezell, GSD vice president of sales, "the order rate is higher than we predicted." One of the reasons for the fast reception may be the 60-day delivery schedule, the quickest announcement-to-delivery schedule for a new IBM computer.

"This is the easiest-to-use, smallest, and lowest-priced general computer ever announced by IBM," Rogers says. "It was designed specifically for the first-time computer user."

It also could well be a case of the right product at the right time. "It makes good sense to buy this system now," explains Rogers, responding to the inevitable question of introducing a new computer in a "difficult" economy. "During a period of tight money, it's essential to have effective business controls to avoid unnecessary expense. Controls are often the key to remaining profitable, and System/32 can give a small-business man that extra edge and more than justify itself."

During the press demonstration, Rogers, Dezell, and Carl Gebhardt,

Special industry application programs make System/32 easy to operate, especially for the customer who is using a computer for the first time. Such ready-to-go programs are available for five industries, including construction.
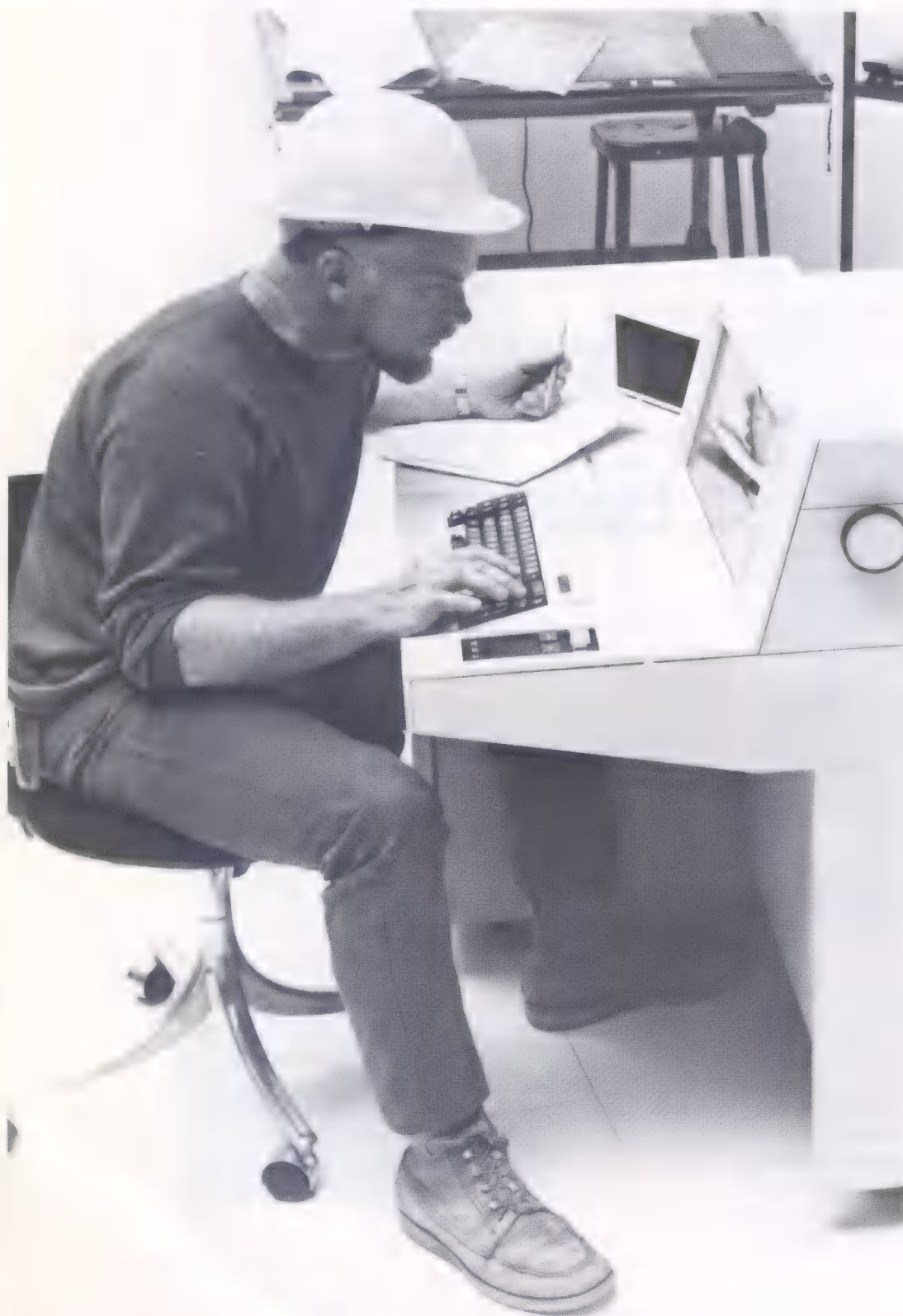
GSD's new-business systems manager, stressed the compact, easy-to-use aspects of the system, with a central processing unit, memory, disk storage, visual display, keyboard, and printing capability all contained in a single, desk-sized unit.

Other features highlighted the division's "outside-in" marketing concept, which gears products to the business needs of the customer rather than bending customer requirements to match product developments.

The result is a total System/32 hardware/software package—renting under $1,000 per month in many cases—and launched with five Industry Application Program (IAP) packages.

Industry Application Programs, which GSD President Rogers describes as "unlike anything ever done before in the industry," were designed, like the System/32 hardware, to be operated by a person with a minimum of training. The programs were developed to meet the specific needs and priorities of small businesses within the hospital, wholesale food, wholesale paper and office supplies, construction, and membership association industries.

The IAPS were produced after intensive studies in those five industries and more than 100,000 man-hours of testing. Use of the IAPS eliminates the need for customer programmers, a requirement that in the past kept small systems prospects from capitalizing on the benefits of data processing.

In addition to the IAPS, the System/32 also has communications capabilities that will make it attractive to larger customers either as a stand-alone system or hooked into a network.

"System/3 has been the most popular computer IBM has ever produced," Dezell told the press. "But it is still more computer than hundreds of thousands of smaller firms need or can afford.

"System/32 will be used by many large companies. But, its biggest market

On announcement day in Atlanta, GSD President C. B. (Jack) Rogers, center, and Jim Dezell, GSD vice president, sales, watch Carl Gebhardt, new-business systems manager, put System/32 through its paces.

will be with businesses doing less than $10-million in sales a year and employing from 10 to 250 persons. These smaller companies constitute the biggest employer, the biggest retailer, the biggest wholesaler in the American economy."

Admitting this segment of the economy is hit hardest by the current economic status, Dezell observes: "Productivity is still considered the key to solving a lot of problems. We believe that the System/32 will provide productivity solutions for the small-business

man at a time when he really needs it."

Rogers struck the same theme a few days later at a meeting of company executives when he noted that the "System/3 and System/7 are selling at a very satisfying rate and have a backlog that is stronger than ever.

"The System/32 broadens the GSD product line and we think we can thrive in the current economy because our products fit the business climate, focusing as they do on improved management control, increased resource conservation, and better productivity."
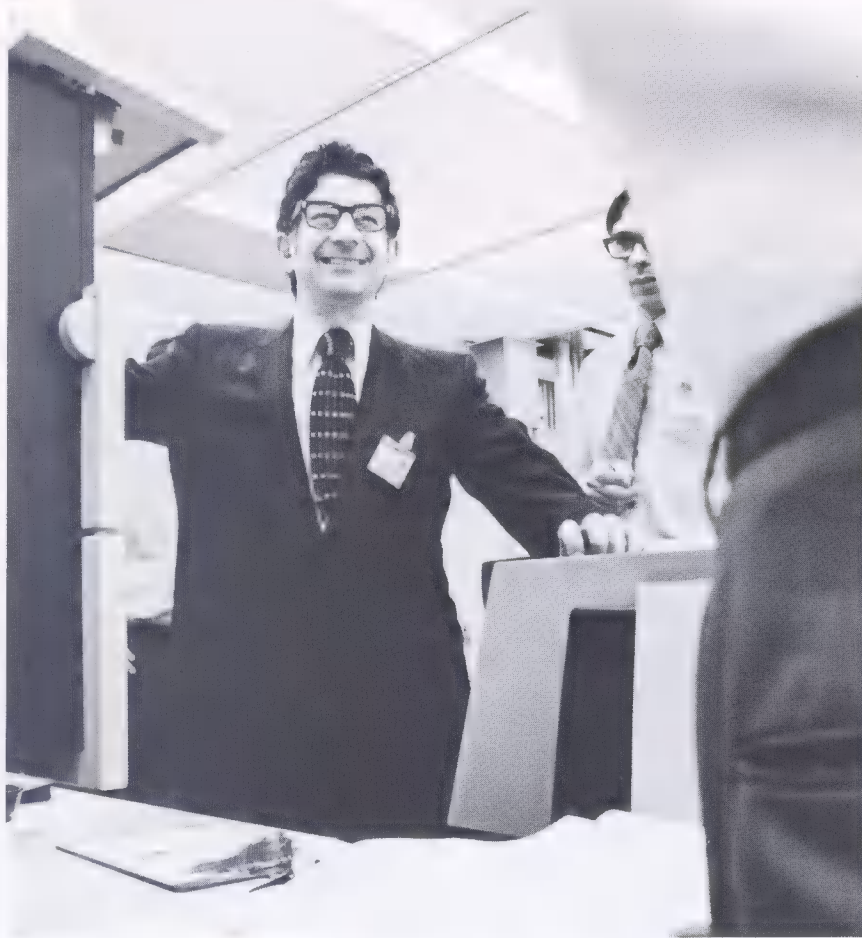
System/3
Tough act to follow

System/32 has, as the saying goes, a tough act to follow—the five supersuccessful years of System/3.

For, since its announcement in July 1969, System/3 has established itself as the bellwether of small general-purpose computers. And, although it may

Harry Tashjian
The man behind System/32

When, in the fall of 1971, the General Systems Division set up a task force in Rochester to study the feasibility of developing an "under-$1,000" computer, the person selected to head the group was, naturally, Harry Tashjian.

Naturally, because Tashjian was systems manager for System/3, the logical jumping-off point for the project, and because, during his 23-year IBM career he had established an impressive track record as a development leader.

Tashjian was put in charge of System/32 development, and has headed the effort ever since. Officially titled systems manager of general-purpose systems, he is responsible for both the System/3 and the System/32.

"Many hundreds of people at several locations worked on the components, application packages, and marketing and service plans for the product," reports Tashjian, "but I'm particularly proud of the Rochester team (200 to 500 people at various stages of development), which tied it all together."

The small system required a big engineering effort. As Tashjian explains: "To hold down the size and still pro-

vide a broad range of functions for the customer, we had to know and use all the latest technologies and push on from there. We also had to be very cost-conscious at every step of the way or we would have failed one of the basic objectives of the program."

There were two breakthroughs in the System/32 program as Tashjian sees it. One was incorporating the input-output functions, the memory, logic—the total computer—into a single desk-sized system. The second was Industry Application Programs, which provide total application solutions tailored to the customer's requirements.

Tashjian joined IBM in 1948 after receiving a mechanical engineering degree from Cornell and serving in the U.S. Air Force. He worked on unit record equipment at Endicott and at Rochester, where, in 1959, he established that location's development activity. Tashjian played a key role in applying transistors to unit record equipment, in the 188 Collator, and later in the development of the 1060 Teller Terminal, the first on-line communication equipment announced by IBM.

be losing its title as *the* small computer, it continues to be a mainstay of IBM's product line.

At introduction, System/3 had a customer target and marketing objective not unlike those that are now set for its new, smaller sister system. Its customer was to be small business and the remote arm of a bigger business, and its objective was to lower the entry point for new computer users.

System/3 was designed to meet the needs of customers who were ready to move beyond unit record equipment but could not justify going to the smallest System/360, the Model 20. It was easy to install, use, and program. It was also low-cost, with a high-performance potential. One of its most striking features was a new punched card, reduced to the size of a credit card but with greater capacity than the traditional punched card devised by Herman Hollerith.

The new system was an immediate success across the country. Just a few weeks after announcement, it surpassed its sales forecast for the entire year. Hundreds, later thousands, of businessmen were anxious to use a computer for all the standard processes —billing, payroll, accounts receivable, and inventory control—plus new applications.

But, that was just the beginning. In 1970, a device was announced that enabled System/3 to communicate with other systems and terminals. This opened up a whole new application area for System/3—big customers with teleprocessing networks. Later in 1970 came the introduction of System/3 Model 6, a smaller version offering disk capability at an even lower price.

In July of 1973, the System/3 family grew upward with the addition of the Model 15, which fit into the narrowing gap between System/3 and the low end of the System/370 family.

Less than four months before the announcement of System/32, the cardless System/3 Model 8 was brought to

"KIL-A-WATT"

market—especially designed for the on-line environment in which punched cards are bypassed in favor of direct data entry. Sixty days after announcement the Model 8 was selling at 200 percent of plan.

Today, more than 25,000 System/3s are installed worldwide, and there is no sign that customer interest is dwindling.

System/7
Getting even better

And what of System/7, the third of the General Systems Division's triple-threat approach to the small-systems market? Nearly 2,500 have been installed, and on the day System/32 was announced, GSD enhanced System/7 with an on-line printer with capability of 80 to 155 lines per minute, depending on the print character set; a card reader with operating speeds of up to 300 cards per minute; and additional programming support.

The enhancements enable System/7 to do its own data analysis and report preparation. Until now, many systems merely monitored and controlled a wide variety of on-going processes in such places as refineries, paper mills, power plants, production lines, water treatment plants, pumping stations, kilns, and testing laboratories. But the system was limited to providing "raw" data for a separate, larger computer to process.

Programming enhancements also make possible the high-speed transmission of data between System/7 and System/3.

Although it remains a special-purpose machine, the "new" System/7 will be a lot more independent and versatile than before. ∎

The letter, a simple thank you note, took Pamela Mitchell by surprise.

"Best wishes to the Watt Watchers," it said. The writer commended Mrs. Mitchell and her neighbors in a northwestern Chicago suburb for doing their part in helping to stop inflation and save energy.

"With the help of ideas from families and individuals across the land," wrote President Ford, "our country can overcome this serious problem.

"Thank you and keep it up."

What had intrigued the President was Mrs. Mitchell's unique formula for slimming down electric bills. Each month, Pamela Mitchell, a nursing student, and her husband, Tim, an IBM systems support representative in the Data Processing Division's Region 9, meet with 10 other couples for a potluck supper. Among them: Al Crook and his wife Karen. Crook is a senior customer engineer in FE branch 090, Chicago.

Each couple brings a dish—except for the couple with the lowest electric bill for that month, who bring only their appetites. The couple with the highest bill is host. Tips for saving electricity are shared along with the meal. Among them:

∎ Before buying an appliance, check the amount of watts it uses. "Although many appliances look alike," says Mrs. Mitchell, "some use substantially more electricity than others."

∎ Open the window shades to let the sunshine help heat your rooms during the winter; do the opposite during the summer to cut down on air conditioning.

Since the first supper was held, shortly after President Ford issued his WIN (Whip Inflation Now) message last fall, Mrs. Mitchell's effort has sparked other clubs in her Palatine neighborhood, and, more recently, it has caught national attention through newspaper, radio, and television interviews. In March, Mrs. Mitchell's campaign to save electricity will be written up in McCall's magazine. In addition, Professor Richard M. Johnson, head of the political science department at the University of Illinois, Chicago Circle Campus, who is making a study of how Americans can change their lifestyles in order to conserve energy, has asked to do a study of the group.

"It's not that we're fanatics," says Mrs. Mitchell, the mother of three boys, Tad, 8; David, 7; and Andy, 4. "But cutting down is a lot easier when you have a group to help you.

"It's also easier," she adds, "when you have three kids following you around the house turning off lights." ∎

What the resident manager can do for you

by Claire Stegmann

If you have a problem that's getting to you, affecting your job performance, but you can't seem to get through to your immediate manager, or even the regional or divisional manager, then you would do well to make the acquaintance of your resident manager.

What's a resident manager?

He's one of a baker's dozen, unique in American industry—serving as IBM Chairman Frank T. Cary's personal emissaries to the field.

As extensions of the Corporate Staff, resident managers report directly to Armonk. They have no line responsibilities. They are not part of field management. Their job is to help field organizations keep in step with policies and practices of the company and to offer an additional avenue of redress to employees who may wish to be heard on them.

"As a Corporate representative on the spot," says Frank Cary, "the resident manager can be of tremendous help to line management. He is conditioned to look across territorial and divisional lines, to be certain that company policies and practices are understood, applied broadly and with a sensible consistency. I tell them about the core problems of the business and what is concerning me at the moment. And they're helpful in telling me whether those messages are getting through, or if they're being misunderstood and improperly administered."

Resident managers are located in a dozen major cities in the U.S. Gil Valls serves in a similar capacity for Puerto Rico, where he is based, and the Virgin Islands. Among them, they visit most of IBM's 600 branch offices at least once a year.

They report to the Corporate Office through Walter J. Pedicord, vice president, personnel relations, and they journey three times a year to Corporate Headquarters to meet with Cary and other IBM executives, including division presidents.

The resident managers' aim, explains George Youngdale, IBM director of the Resident Manager Program in Armonk, is to *support*, not compete with or get in the way of line management on policy and personnel matters. Much of their time is spent on improving communications across divisional lines and between managers and employees. When necessary, they also alert line management to community needs.

They are carefully selected. In Cary's words: "Nobody is appointed resident manager whose name and record isn't known and respected by IBM top management." All told, their combined IBM management experience totals almost 250 years. Most have managed district offices, major facilities, or their equivalent.

This experience and sensitivity equips them to cope with Open Door complaints they may be asked to investigate. But more frequently they act as advisors and counselors to employees in situations that can be resolved without recourse to the Open Door.

Bill Maloney, in New York City, is a former Office Products Division vice president. Jack Byrnes, in Chicago, is a former director of marketing for the Midwestern Region and a lifetime member of the Hundred Percent Club (he made 10 in a row). Al Pfanschmidt, in St. Louis, once served as Data Processing industry director, process; and Stan McElroy, in San Francisco, in addition to many key DPD Headquarters responsibilities, spent a year on loan to the Federal Government in the AID program.

The newest among them is John LeFevre, a former branch manager in Detroit, who became a resident manager last December after 10 years in management development. The youngest is Bill Deskin, in Washington, D.C., whose broad management experience there made him the prime candidate for the job.

In the course of a year, resident managers talk and listen to thousands of IBMers. Max Femmer covers 10 states from his Denver-based office. Don Reithner works out of Los Angeles to cover a territory with 140 offices
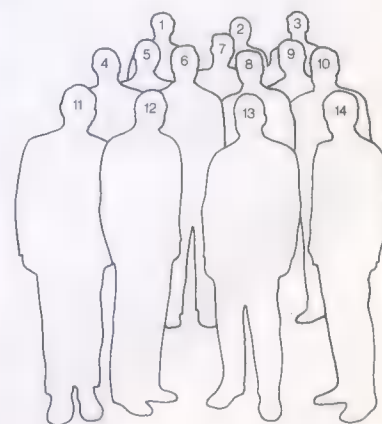
in Southern California, Arizona, part of Nevada, and Hawaii. He estimates that 60 percent of his time is spent in branch office communications meetings, roundtable discussions with managers and other employees, orientation sessions and talks at management schools.

When they visit a location or a branch office, resident managers almost invariably settle in some out-of-the-way corner. Once the day's first meetings are behind them, they welcome any person who may want to drop in for a chat. They see this role as a "safety valve" for employees as well as managers who may have reached a pressure-building point in their careers.

As Walt Schultz, in Philadelphia, puts it: "When you are in the field, IBM often looks big, complex, and mysterious. By helping employees understand more about the company and the reasoning behind our decisions, I can dispel that feeling."

Says Phil Bradley, resident manager for New England: "Often, before employees voice concern openly over something which they feel is affecting them adversely, they will come to me to discuss what course to follow. In this way I can guide them in whatever they might do. It also gives employees a chance to talk over their problems and think them through before perhaps raising a formal complaint."

The resident manager almost always recommends that the person with a problem take the matter up with management in the division or region before enlisting his aid. But once a problem is put in his hands, he moves quickly to resolve it—sometimes within a matter of hours.

Like a good referee, he tries to call the plays with a sensible consistency. As a result of his action, employee appraisals have been reevaluated; they have also been upheld. In some instances, he also assists line management on transfers where personal considerations become paramount.

Youngdale says: "I think we have been successful in bringing to a satisfactory resolution the majority of problems we have handled. I worry, though, that some of our women and minority employees may have job problems that could be quickly resolved by their managers or resident managers were they aware of our desire to do so."

Dick Harrison, who handles the Southeast area out of Atlanta, and Gus Rathe, whose territory encompasses the South-Central area, "from Mississippi to New Mexico," agree. "Most minority employees," Rathe maintains, "use the program only as a last resort. The Resident Manager Program can be very useful to minority employees. They're missing the boat by not being more aware of it and putting more confidence in it."

What with high costs, and recession, 1975 promises to be a busy one for IBM's resident managers. But Jack Byrnes will take it in stride. He joined the company in 1939, while the country was still in the aftermath of the Great Depression, and he's been through the recessions of 1958 and 1970.

"We've faced severe economic dislocations before," he says, "and we've always come out a stronger company. What IBM, and indeed each of us, faces is not something new. The important thing to remember is the company's genuine concern for the individual. That hasn't changed, and it isn't going to." ∎

Their territories

FEMMER
McELROY
LeFEVRE
SCHULTZ
MALONEY
BYRNES
BRADLEY
PFANSCHMIDT
DESKIN
REITHNER
HARRISON
RATHE
Alaska
McELROY
Hawaii
REITHNER
VALLS
Puerto Rico

Briefs

A Dutch tradition at Poughkeepsie

Last September, 22-year-old Caspar Helmer joined IBM's programming education center in Poughkeepsie, N. Y. He found his job in programming design interesting. Everyone spoke in superlatives about his work. But, by Christmastime, Helmer's employment with IBM had ended.

What went wrong? Nothing at all. Helmer, a dark-haired Dutchman, is a student for a master's degree in electrotechnology at the Twente Institute of Technology in Enschede, the Netherlands. Twente degree candidates are required to work at least three months in the world of industry. And Helmer had chosen IBM.

He was the second Twente student to do so, on a fellowship from IBM Netherlands. Both he and Steven van Schaick, who preceded him in 1973, were encouraged by their faculty advisor, Professor G. A. Blaauw, himself a former IBM employee.

Dr. Blaauw is widely recognized for his work as a principal architect of System/360. The so-called "Blaauw box"—a device used in the dynamic relocation of programs—which he originally designed for the System/360 Model 67, has since been adapted to System/370. He returned to his native Holland in 1965, to occupy the Twente chair for digital techniques.

When young van Schaick approached IBM Netherlands for his industry training, the company sought Professor Blaauw's advice on where to place him. Dr. Blaauw recommended the Poughkeepsie programming education center. There, Dr. Raymond Polivka, an advisory instructor with the System Products Division, and an old friend from early 360 days, was using APL to design a hypothetical machine for training microprogrammers.

Says Dr. Polivka: "It was a perfect case of serendipity. Steven knew both APL and microprogramming. He took our implementation design and made it work. Then, we needed an interface program, and Caspar appeared on the scene. He did his B.A. thesis in interface design. I wish we could have kept them both on a permanent basis."

'Now is the time for...' Now you can type it in Athabascan

Navajos in the American Southwest have been using IBM's Selectric Typewriter for years—to conduct business in English. Now, a new version of the typewriter's popular little printing sphere has been adapted to the Athabascan languages, spoken by the Navajo, Apache, Sarcee, and Chipewyan among other North American Indian tribes.

Announced in January, the new element (it joins 47 others) contains the Roman alphabet, plus the five additional symbols used in the Athabascan languages. It was developed with the aid of 'Ak'E'Elchiigi (Navajo for "about writing"), Inc., ■ nonprofit organization dedicated to promoting literacy among Navajo and other Indian peoples, and to preserving their oral and written languages. Already, a Colorado reservation has ordered the new typing element, plus Selectric Typewriter, to translate the Bible into Navajo.

The switch to metric

Although the Congress has not yet enacted legislation on national metric conversion,* U.S. corporations are already picking up speed on what they see as an inevitable changeover—IBM among them.

The signs are apparent on company billboards, where posters carry the message: "The world is moving too fast to inch along . . . SI metric. It figures."

SI is shorthand for *le systèm international d'unités,* the International System of Units that has gained near global acceptance.

IBM announced its formal conversion plans some two years ago. Today, several thousand U.S. employees are designing, drafting, and manufacturing to metric units and practices. By 1982, the metric system will be the predominant measurement language in IBM product areas.

Meanwhile, metric usage is increasing in industry and trade and technical associations. The American National Metric Council—whose chairman is Adrian G. (Scoop) Weaver, director of standards practices for IBM—is coordinating metric activities for over 400 member companies, plus 337 national and state organizations, including some from Canada.

IBM has shared its conversion experience with many such groups. Says Philip A. Markstrom, program manager, metrication: "Last year alone we had over 400 inquiries about it."

IBM Director of Standards L. John Rankine emphasizes: "Conversion is not something that is going to happen overnight. It's an ongoing evolutionary process."

* Last year, Congress did pass amendments to the Elementary and Secondary Education Act, authorizing $10-million a year for three years to prepare American students for the change.

A cheer arouses no barrier to smiles as families of IBM U.K. employees greet Queen Elizabeth who made a "walkabout" before her departure from Havant. She is accompanied by the company's Managing Director Eddie Nixon, on her right. In background is Lord Cromer, chairman of the board of IBM U.K.

As the Queen follows his explanation on a color television screen, John Fairclough, managing director of IBM U.K. Laboratories Limited at Hursley House (pictured in background), demonstrates IBM's energy management system. Seated at terminal is Derek Martin, a senior resource engineer at Hursley.

A Right Royal Day

For IBM U.K. Managing Director Eddie Nixon, 1974 was, by all accounts, a right royal year.

On December 3, turned out in top hat and morning coat, he went to Buckingham Palace, where he was invested a Commander of the British Empire. The decoration was for IBM U.K.'s role in expanding British exports.

Three days later, the tables were turned when Queen Elizabeth II paid a visit to IBM's Havant (pronounced *havn't*) plant in the County of Hampshire, 65 miles south of London—the first such visit by a reigning British monarch to an IBM U.K. facility. Queen Elizabeth and her husband, Prince Philip, have made a point of inspecting technologically advanced industries throughout the British Isles.

It was a pleasant, as well as historic, occasion for 1,800 IBM U.K. people working at Havant and their families. The visit started on a personal note when the Queen was greeted by six-year-old Alison Smith, who presented a bouquet of white roses and lilies of the valley.

Albans, who brought off with style a much-practiced curtsey, is the daughter of Ian Smith, intermediate systems and storage products manager at Havant.

During the hour-long visit, the Queen was briefed on IBM U.K. locations, which include the nearby Hursley laboratory and a new U.K. Administrative Headquarters nearing completion at Cosham, on the outskirts of Portsmouth, four miles away. She witnessed teleprocessing demonstrations, with visual display units and keyboards, at Infor-

mation Services Limited, which manages the European hub of IBM's worldwide internal communications network. In the Model 168 test area, Queen Elizabeth stopped to look at a machine scheduled for export to Quebec. And, in a walk through the assembly area, she showed considerable interest in a machine which aids in computer wiring by showing the operator exactly where thousands of connections must be made.

Other high points of the Queen's visit to IBM included: a display of

a Hursley-developed disk storage device, a demonstration of the 2984 cashpoint terminal used by Lloyds Bank, and a demonstration of IBM's energy management system.

The Havant plant, which began operation in 1967, is responsible for a wide range of products, from System/370 Models 168 and 158 to systems controllers and storage devices. IBM employs nearly 4,000 people in Hampshire, a county noted for its coachwork, sheet metal, gloves, and electronic equipment. ■

Sterling Forest

Palo Alto

Boeblingen
Germany

Poughkeepsie

Manassas

Fujisawa
Japan

Kingston

Endicott

San Jose

Roc

When the System Development Division
gets together it becomes a global event

FORUM '75: UPDATE FOR

It was the first gathering of its size and scope since the System Development Division was formed in 1972. It was called Forum '75, and it brought together many of SDD's top professionals from around the world.

Fifteen people flew in across the International Dateline from the lab in Fujisawa, Japan. A four-man delegation from the Westlake Programming Center drove just 30 miles on the morning of the opening session.

The 20-member group from Boeblingen, Germany, arrived a couple of days early for a get-acquainted visit at IBM facilities in San Jose and Palo Alto.

From Poughkeepsie and Kingston, 190 men and women arrived on registration morning after a flight aboard two chartered DC-8s.

Others came from North Carolina, Virginia, Minnesota, Colorado, England, France, Austria, Canada, and Sweden.

Just over 1,000 members of the System Development Division from 21 locations were in attendance at the Century Plaza Hotel in Los Angeles when Division President Bob O. Evans took the stage to formally open the program.

The three-day meeting was a recognition event (the attendees were selected by location management for their performance and special contributions) an occasion to review the technological achievements and condition of the division, an opportunity to get an insider's look at its future course, a chance to hear outside experts discuss the world economy and the role of technology.

In what—events would prove—was a large understatement, Evans, in his opening remarks, announced that: "In recognition of the outstanding job so many of you have done, we plan to present a number of awards."

By the time the meeting adjourned three days later, that number totalled 26 Outstanding Contribution Awards, including four for $10,000; 14 of SDD's first Management Excellence Awards; 12 IBM Excellence Awards, including two Outstanding Management Performance Awards; and a newly established SDD President's Trophy, to Dan Doody, general manager of IBM Manassas.

In an unusual expression of thanks,

LaGaude
France

Uithoorn
the Netherlands

Vienna
Austria

Los Gatos

Boulder

ursley
England

Harrison

Burlington
(Mass.)

Westlake

Gaithersburg

Raleigh

ster

A DEVELOPMENT TEAM

SDD's mission assigns its *worldwide* responsibility for systems definition, architecture, and systems management for IBM's principal computer product lines; *worldwide* systems programming responsibility; and *worldwide* development, and U.S. manufacturing responsibility for general-purpose communications products, terminals, displays, and industry systems.

To carry out that assignment, the division has a complement of 10,200 in the U.S., and 2,700 in World Trade laboratories engaged in engineering, programming, and planning; and 3,500 people in manufacturing at its plants in Raleigh and Manassas.

SDD has development operations at some 20 locations in the United States,

Europe, and Japan. The larger laboratories may have several thousand employees; some of the small, but vital programming centers have fewer than a hundred.

Division President Bob O. Evans—still two years away from Quarter Century Club membership—has been an IBM division president since 1965 (first at the Federal Systems Division, then the former Systems Development Division) and an IBM vice president since 1972.

Evans is an engineer of considerable distinction (a Fellow of the IEEE and a member of the National Academy of Engineering) who worked on IBM's earliest large-scale computers and had a major hand in bringing the revolu-

tionary System/360 to the marketplace.

As head of a division that is charged with gauging the needs of a distant marketplace, and developing the equipment to meet those needs, Evans bears a heavy responsibility for IBM's future. But he is a risk-taker, convinced that his people can do the job.

SDD's president summed it up neatly in his remarks at one of the Forum '75 sessions when he told his audience that IBM must continue the technical leadership that has made it successful.

The company has a tradition of providing outstanding products and services, he reminded them, that must be upheld.

Winners at Forum '75

Satellite engineer

Ralph Metz gets very enthusiastic on the subject of satellite communications. He went to Forum '75 expecting to get involved in further discussions on the subject. "It's a new and exciting field," says Metz, "and there are some strong opinions on what IBM's course should be." But, instead of a debate Metz got a $10,000 Outstanding Contribution Award.

However IBM may proceed in satellite communications, chances are that several of the ideas and approaches (in the areas of digital transmission and customer earth stations) that Metz has proposed will be importantly involved.

The 46-year-old electrical engineer out of C.C.N.Y., joined IBM in 1963 as an advisory engineer with the Federal Systems Division. His work on military satellite programs led to his excitement for the potential of satellites in domestic telecommunications.

While home base is in Raleigh for Metz and his family, he reports to the Poughkeepsie laboratory, which has him in somewhat of a weekend commuting orbit of his own.

Zero defects

Pierre Lacam *might* have been the most excited person in the room when his $10,000 Outstanding Contribution Award was announced, but not necessarily. His wife, Julianne, was also seated in the audience. Mrs. Lacam, a programmer for SDD in Palo Alto, was invited to Forum '75 in her own right.

Lacam, 38, is an advisory programmer who specializes in high-level programming languages. He was honored for developing an interactive computer program that allows the user to do systems testing via terminal programs written in COBOL. In more than 20 months of customer use, not one defect has turned up in the approximately 7,000 lines of programming code he produced.

The O.C.A. winner, who comes from the tiny village of Lacapelle-Marival in southwest France, received his degree in mathematics from Toulouse University, and joined IBM in 1961 as a programmer trainee in Paris. He subsequently worked in the LaGaude laboratory and at the New York Pro-

President's trophy

gramming Center. He came to the United States on permanent assignment in 1967.

"It's still a little hard to believe," says Lacam, but he and his wife are putting the money to good use furnishing their new home in Cupertino, Calif.

In 1974, SDD Manassas more than quadrupled its 1973 production of Emerald logic and memory circuit devices used in many of IBM's most recently announced products. But that's just half the reason Manassas General Manager Dan Doody was awarded SDD's first President's Trophy. ("I really can't say enough about the spirit and dedication of the people at Manassas," said Doody.)

In making the award, SDD President Bob O. Evans also cited Doody's leadership of the Kingston team that developed the IBM 3270 information display system. Together, they solved several serious technical and business problems that threatened the project. "It is clear today," said Evans, "that the 3270 is the most successful program in the history of IBM communications products."

Error detector

Gary Okimoto's $10,000 Outstanding Contribution Award resulted from a project that he had been pursuing on a part-time basis at work and at home, for about three years. What he came up with is a dependable technique for accurately predicting the number of errors that will be found during the testing cycle of programming development and in customer use. The technique is important because it makes it possible to identify error-prone modules and devise ways to build more reliable components and systems.

It is Okimoto's second O.C.A. He received his first in 1972 for developing a flow diagram technique.

Okimoto, 30, has degrees in mathematics and climatology from the University of Hawaii. He joined IBM in 1969 as a junior programmer and continued in programming until he was made a staff planner in the advanced systems project office at Endicott last June.

"It's kind of hard to accept the reality of $10,000," says Okimoto. It affected the rest of the family in different ways. His wife, Marcia, went sleepless for 24 hours after he phoned the news; son, Todd, 1, ignored the whole thing.

Terminal builder

Edward Sussenguth, manager of communications systems architecture at SDD Raleigh, received his $10,000 Outstanding Contribution Award for creating the architectural concept for Systems Network Architecture (SNA). SNA is key to several recently announced terminal-oriented products such as the supermarket system, the retail system, the banking system, and the 370 programming support for these systems. They have been described as revolutionary in concept and as being fundamentally new data processing tools that will set new directions for years to come.

Sussenguth, a mathematician, joined the Thomas J. Watson Research Center in 1959. He became a member of the then Systems Development Division in 1964 as manager of systems architecture at Menlo Park, Calif., and later served as assistant to the SDD president.

The 42-year-old award winner studied at M.I.T. and Harvard, where he received his doctorate. He received a previous O.C.A. in 1969, and also holds 12 patents.

SDD *President Bob O. Evans presents Chairman Frank T. Cary with a universal controller, a small, powerful computer developed by* SDD *which is the heart of* IBM's *new banking, supermarket, and retail terminals.*

the division also presented inscribed desk sets to "five of the best friends SDD has," IBM people who had been particularly successful in selling and installing SDD products at major accounts. The friends, who attended Forum '75 as special guests, were Dick Pomerantz, a Philadelphia marketing rep; H. Nakai, an IBM Japan systems engineer; Alberto Tamburrini, a marketing manager in Rome; Chris Oliver, a marketing rep in London; and Joe Valvoda, an SE from Chicago.

During the tightly scheduled Forum program, the group attended breakfast meetings hosted by the SDD vice presidents, Ted E. Climis, system development; Donald T. Spaulding, plans and controls; H. Mitchell Watson, Jr., communication systems; and Earl F. Wheeler, industry systems. They also heard talks by IBM Chairman Frank T. Cary *(see next page)* and Senior Vice President and Group Executive Paul J. Rizzo.

Rizzo recounted the evolution of data processing and the major effects of IBM's many technological contributions. He pointed out that the expanding computational needs of business, industry, science, and government require the development of new equipment and new concepts that "will make data processing more valuable and more productive than ever.

"In SDD," Rizzo said, "you've got a tremendous responsibility. Nothing much can happen unless you continue to lead the way by providing the systems, the programming, and the communications products that are so critical to IBM's continued success. The only proven way I know [to meet these demands] is to put the best people on the toughest work. You are unquestionably the best." ∎

Best in programming: Endicott and Boeblingen

Most of the plaques, checks, and crystalware awarded at Forum '75 were for individual effort—with two notable exceptions: the SDD programming centers at Endicott and Boeblingen, which were recognized for special group performance at a breakfast meeting hosted by Ted E. Climis, SDD vice president, systems development.

For the second year in a row, Endicott was named the best programming center of the 16 centers the division operates around the world. The 280-person Endicott team captured the top prize for all-around performance in producing programming for vs-1 and vs-2*, and for developing advanced systems. Ted Sasala, manager of the Endicott center, accepted the award, a bronze plaque.

Among the factors considered in Endicott's selection were the quantity and quality of programming produced, degree of innovation in programming development, overall management performance in dealing with people, budgets and plans, and coordination with other centers and programming systems groups.

For being the best center on the basis of quality alone, Boeblingen was awarded the "silver APAR" (Applied Programming Analysis Report) plaque. The 110 people at the Boeblingen center produce programming components for DOS-VS*.

On a per capita basis, the Boeblingen programming center reaped the most Forum '75 honors of all. Two of its people, Sakis Tsaoussis and Hannelore Daeschler, won Management Excellence Awards for "outstanding effort in working with people."

Tsaoussis, manager of the center, is a native of Greece, educated there and in Switzerland, and a true internationalist. During the 12 years he has been with IBM (he started as a systems engi-

* DOS/VS, OS/VS1, and OS/VS2 are programming systems which provide the basic interface between the machine and the programmer/operator. Their function is to manage and run the System/370 virtual machines. DOS/VS is usually used in the smaller 370s, OS/VS1 with the mid-range machines, and OS/VS2 with the largest and most complex 370 computers.

neer in Sindelfingen), he has held programming, engineering, or planning assignments in the United States, France, and the Netherlands. He went to the Boeblingen center in May 1973 and is credited with having generated its high quality and morale.

Miss Daeschler, who six years ago was one of the first two women managers appointed in IBM Germany, directs the efforts of nearly 30 people in current systems development. She has been involved with programming since she joined the company as a systems programmer in 1963.

Others singled out for management excellence were: Phil Austin, Hursley; Bill Durham, Kingston; Gordon Larson, now at European Headquarters in Paris and formerly at SDD Headquarters; Derek A. Lindsley, Raleigh; Richard Martin, Raleigh; Andre Pascal, LaGaude; John Reuter, San Jose; Vernon Reynolds, Manassas; Lloyd Spiker, Palo Alto; Susan Vanderhei, Poughkeepsie; Ronnie Van Stavern, Uithoorn; and Robert Winrow, Kingston.

"Many people fail to accept the consequences of free enterprise. They accept the concept of competition, but they don't accept economic winners and losers. And you can't have competition without winners and losers.

—Frank T. Cary

In a speech at the System Development Division meeting in Los Angeles, IBM Chairman Frank T. Cary condemned "economic ignorance" and called upon IBM people to spread their understanding of the enterprise system. Excerpts follow.

"Let's look at the American free enterprise system. What do we see? Widespread ignorance of the facts about the system. Widespread suspicion of success in the system. Constant demand for more government intervention and control.

Public opinion polls tell us the "man in the street" thinks corporations pay 10 or 20 percent in taxes, instead of the actual 50 percent; that, measured against sales, companies make 40 or 50 percent profit, instead of the actual average of 6 percent . . .

Many people fail to accept the consequences of free enterprise. They accept the concept of competition, but they don't accept economic winners and losers. And you can't have competition without winners and losers.

. . . They want an abundance of energy, but they don't want to pay the bill. In short, they believe that somehow there's such a thing as something for nothing. To me, this is economic illiteracy.

What's the result? A public inclination toward the punishment of success. We see it in the demands for an excess profit tax on corporations, in the public eagerness to split up successful companies, and in the drift toward more and more government intervention and control—toward some vague kind of egalitarianism, in which the efficient, the mediocre, and the slipshod all prosper alike.

* * *

Up to now, the international economic system has rested on the assumption not only that the resources of the world go to the highest bidder, but also that the price has a reasonable relationship to the cost of production, plus a profit. That assumption was torpedoed when OPEC nations quadrupled the price of oil. Their actions have jeopar-

dized the present level of economic activity, but more significantly, have forced nations to question the viability of a highly interdependent economic system.

In short, either we make international trade work and become a more interdependent world, or we will find ourselves going backwards, undoing a system that rebuilt Western Europe and Japan and tripled the total GNP of the free industrialized countries.

* * *

What can we in the IBM company do? Feel proud of what we've accomplished as part of the free enterprise system. Take a hard look at both our national and international economic systems, appreciate their merits, and work to remedy their faults.

Stand up and be counted to keep these systems functioning by telling your family, your friends, your Congressmen, anybody who will listen. Because if we who understand these systems don't support them, those who don't understand them will prevail." ■

A Progress Report

EQUAL OPPORTUNITY

Back in 1962, when IBM joined the Federal Government's Plans for Progress Program, there were 1,250 employees from minority groups*—about one and one-half percent of the company's total U.S. work force.

Today, there are 17,177 employees from the same groups. They now represent 10.6 percent of the U.S. company's population—nearly 14 times as many as in 1962.

Minorities accounted for nearly 25 percent of last year's new employees and slightly over 21 percent of the college graduates hired by IBM.

During the middle Sixties, the big hiring thrust was on numbers—adding minorities, principally blacks, to the work force. In the late Sixties and early Seventies, those patterns began to change with emphasis on all minorities, not just blacks, and more attention was focused on upward mobility within the company.

This turn is reflected in a three-fold increase since 1969 among minorities in managerial positions, a three-fold increase among minorities in sales. Today there are 1,107 minority managers; 1,046 minority sales reps. There have also been substantial increases

*This classification includes blacks, American Indians, Oriental/Asian Americans, and Spanish-surnamed Americans.

among professionals and technicians.

In 1970, the Equal Opportunity Program was expanded to include Affirmative Action for women. Emphasis in the IBM program was put on educating managers to help them understand why they should hire and develop minorities *and* women. First-line managers were made aware of their obligations to develop all employees to their potential; senior managers were to ensure that their managers were fulfilling this commitment. These obligations are now an integral part of the company's annual planning function, the same as any other business objective.

The results for women, like those for minorities, have been substantial. From 1968 to the end of 1974, the number of women managers more than tripled (from 273 to 907), women in sales increased more than seven times (from 134 to 988), and women technicians increased nearly 25 percent (from 1,254 to 1,614). In 1974, 38 percent of all new employees hired by the company were women.

Significantly enough, these gains, like those for the minority population, were accomplished during a period of flattened population growth for the U.S. company as a whole. During the 1969-1972 period, company population declined by 14,000.

"As opportunities have increased within IBM," says Mary Burke, manager of women's programs in equal opportunity, "women have found increasing job satisfaction and more incentive. As they are given greater responsibility, they feel more permanently attached to the corporation.

"Attrition has traditionally been a problem with women employees. We are pleased with the 30 percent reduction in the attrition rate over the past four years, even though it is still higher than that of men. The decrease reflects a number of things—changing times and attitudes, liberalized maternity benefits, and the need today for many women to assume full-time jobs."

An assessment on how well the company is doing was offered by IBM Chairman Frank T. Cary in a *Management Briefing* last year.

"We've made good progress on one of our objectives," he said, "bringing into IBM capable and highly motivated minorities and women.

"Our second objective is taking longer to achieve: helping minorities and women qualify themselves for advancement at every level of the business, consistent with their abilities and their growing population in the company."

The relevant question most fre-

165,000

155,000

145,000

1969
1970
1971
1972
1973
1974

Total U. S. IBM Employees

Women
More managers, more sales reps,
more professionals, more technicians

Minorities
More managers, more sales reps,
more professionals, more technicians

3,000

2,000

1,000

Women

	Technical	Sales	Professional	Managers
1969	646	171	4,954	383
1974	1,614	988	5,185	907

Minorities

	Technical	Sales	Professional	Managers
1969	2,302	340	2,495	415
1974	3,522	1,046	3,862	1,107

1969   1974

quently asked by IBM managers—how can we do that without practicing reverse discrimination?

To it, Cary gives this answer: "We will not compromise our policy of promoting the most competent, most qualified people. Many minorities and women are well qualified by any measure. What we all have to do as managers is provide those who may need it with extra help and learning opportunities to shorten the time necessary for minorities and women to compete on an equal footing with other IBMers. The best individuals will still be selected for promotion, but we intend to make the competition keener."

Line management support of Equal Opportunity is manifest throughout the business. But some say the gains have not come without problems. And here they refer mainly to employees who contend that minorities and women are sometimes favored unfairly in promotion.

True? Possibly, in some instances, say those responsible for the Equal Opportunity Program—there is always a risk of some inequity as a result of faulty manager judgment in a program of this scale. But they hold that most of the reservations that have been expresed about the program are the product of faulty perceptions and misunderstandings. And they lay those faulty perceptions, in part, to the greater visibility of minorities and women, particularly in management positions. But they insist that the progress of minorities and women has not been disproportionate.

Meanwhile the company keeps a sensitive ear to all concerns through employee opinion surveys, the Speak Up! Program, and the Open Door. These communications show that minority and women employees feel positive about the company. By all measures, they demonstrate a belief in IBM similar to that of other employees.

"We're not doing anything new for minorities and women," says Richard H. Bierly, Corporate director of equal opportunity. "What *is* new is that we're

EOP: It means community support

As the IBM Equal Opportunity Program evolved, it became clear that there was more to do than hiring, training, and promoting employees. One of the problems was a shortage of minorities and women available in technical areas. Black engineers were—and still are—in short supply. To stimulate the training and development of such talent, EOP has enlarged a long-time IBM concept of financial aid to black education, helping minority colleges establish types of programs that otherwise would not be available to them. In addition, EOP supports M.B.A. programs; scholarships; and minority engineering, technical skill, and business education programs.

IBM's Faculty Loan Program began as an EOP project in 1971 with the loan of interested IBM professionals to 18 black colleges. The primary objective of the program is to assist minority institutions in their efforts to improve the educational experience of their students. Since IBM initiated the program, other companies have started similar ones. The IBM project has expanded to 33 institutions, including one for the handicapped, one in Appalachia, one Puerto Rican college, and seven Spanish American schools. IBM people participating in the program receive a one-year leave of absence with pay. One person set up a physics laboratory, others have developed programming courses for colleges, and some have redesigned entire curricula.

Women's programs have also received active EOP support, including the Business and Professional Women's Foundation, the Society of Women Engineers, and the National Council of Negro Women. A recent IBM grant to CATALYST, an organization concerned with expanding career opportunities for college-educated women, is expected to spur interest in technical fields. An objective is to encourage women to enter fields traditionally associated with men—scientific, technical, financial, engineering, and sales.

Some EOP projects are not always visible *within* IBM but, nonetheless, contribute to the social environment, often through IBM people and equipment. For example, IBM is involved with local and national agencies and organizations dedicated to upgrading employment skills of disadvantaged people. Some of the more ambitious projects are those of the National Urban League and the Opportunities Industrialization Centers of America.

The Los Angeles Urban League Data Processing Training Center, for instance, run in conjunction with IBM and the Bank of America, trains disadvataged persons in data processing techniques and secretarial-clerical skills. IBM provides a computer system and a full-time teaching staff of five. To date, 1,147 graduates have been trained for work as computer operators, programmers, keypunch opera-

making certain they are included in our long-established programs.

"We recognize that EOP may not be understood by all employees. But, through training, we intend to share more information. A progress report, for example, is being prepared for release to managers this spring. It will help them share with employees all facets of the company's program so they may have a better understanding of IBM's commitment."

For 1975, a new challenge presents itself: the current general economic downturn and, with it, a limited hiring program in IBM.

The Corporate Equal Opportunity department views this period as a time for intensive attention to internal job development for all employees, including minorities, women, and the handicapped (Think, Oct./Nov. '74).

"Although at present our hiring is limited," says Bierly, "this is the time to offer varied kinds of training to correct manpower imbalance. We hope to move minorities and women into other areas so they can benefit from the wide range of work experiences available in IBM. This is also the time for divisions to set challenging targets and goals for equal opportunity."

In spite of the progress over the past six years, IBM management maintains that this is not the time to relax.

Says Cary: "Compared to industry as a whole, we're doing well. But IBM has always set higher standards for itself. We're not interested in being first in a slow race. We want to be a model.

"We're progressing very satisfactorily, but we're not where we want to be. Minority and women employees are making substantial contributions to many areas of the business. But, our long-term goal—and it must be long term, particularly in view of the present uncertain economic situation—is to increase their numbers to a level more comparable to their representation in the total labor force, and to help each individual more fully realize his or her potential."

as well

tors, secretaries, and clerks; and 93 percent have been placed. Another IBM-supported project, the Urban League of Greater New York's Street Academy, trains high school dropouts through its six storefront facilities. Since 1968, the Street Academy has trained over 1,000 students, more than 400 of whom have gone on to college. Five hundred others have received career training. IBM is also working with the Urban League in Atlanta to establish a training center.

Since 1967, IBM has been actively involved with the Opportunities Industrialization Centers. IBM Chairman Frank T. Cary is a member of the board of directors of the OIC's industrial advisory council. The company has provided financial aid, loaned IBM personnel and equipment to many of the 115 centers throughout the U.S. Over 200,000 men and women have been trained, and 146,000 have been placed in meaningful assignments.

Many OIC graduates now work for IBM throughout the United States. A data processing training center opened in Harlem in 1972, co-sponsored by OIC, IBM, and the Sperry-Hutchinson Company. IBM provides five professionals, data processing equipment (including a System/360 Model 40), and office product equipment to help in the training. In two years, more than 300 students have been trained, and approximately 250 have been placed. The company is helping OIC to expand an existing job training center in Dallas.

IBM is also supporting various programs run by such educational and training agencies as ASPIRA of America, Inc., SER (Service Employment Redevelopment), Jobs for Progress, the Mexican-American Legal Defense and Education Fund, and the American Indian Scholarship Foundation.

Another element in the EOP kaleidoscope is IBM support to minority suppliers. In 1968, 10 minority suppliers did business with IBM. Today that number has grown to over 200. Not only does the company buy products and services from these entrepreneurs, but it also provides technical managerial assistance to help them meet rigid specifications. Several million dollars worth of IBM's group life insurance has been placed with black companies. Minority-owned banks of the National Bankers Association receive IBM deposits. An agreement was signed with an outside agency last year to include minority contractors in IBM's refurbishment and construction projects.

The company has long played an active role in the area of social responsibility. In 1944, Thomas J. Watson, Sr., presented the United Negro College Fund with one of its first corporate contributions. The company is constantly reviewing new projects to determine how it might be helpful. IBM people are also given time off with pay to participate in community projects. ■

People

Annette Clayburn *advisory industry specialist (health), Data Processing Division, Chicago*

As I see it, our EOP policy in IBM is a lot more realistic now than formerly. I joined the company in 1966, and I distinctly remember that two years or so later in my branch office there was a big drive on to hire minorities. The thing that disturbed me was that some minority group people were hired who were not fully qualified.

Apparently, management incorrectly thought it could bring these people in who, merely by being sent to the usual IBM schools, would eventually measure up. They didn't. They couldn't.

. . . Happily, I don't see that kind of thing occurring any more.

. . . Today, minority status is still a factor in the way management looks at some of us, true. But ability is being made the prime consideration. I believe management has finally realized that there are enough of us out there who are fully qualified and from whom a choice can be made.

. . . The leading misconception among employees of the meaning of EOP is that, given a situation where a competing black and a white are equally qualified, the black should be given the edge. That is a misconception. I *hope* that's a misconception.

You see, if two equally qualified whites appear before a manager, the manager is forced to search further into their ability and training in order to determine which has the edge. But if our equally qualified black and white appear, competing, that same manager incorrectly feels that, presto, he has the answer—the black, naturally. This is wrong. He has still got to search further, to see which of these two has the competitive edge.

Beverly Crockett *customer engineering trainee, Field Engineering Division, Hammond office, Calumet City, Ill.*

Thomas Murillo *manufacturing engineering specialist, General Products Division, San Jose*

I'm an American-born Mexican, from Pocatello, Idaho. When I joined IBM in 1956 at San Jose, very few people like me were working in the company. I was just in the right place at the right time . . . plus, the man who took a chance on hiring me was apparently not biased.

. . . In my view, EOP within IBM *should* mean—and I'm not necessarily saying that it yet *does* mean—that the same standard is being applied equally to everyone.

. . . If two people are being considered for a job, and the non-minority person has qualifications that are a little better than the minority person's, then I would want to consider the *whole person* in making my judgment —personality, work experience, and background, for example.

. . . In my life, I've been turned down for jobs because I'm Mexican. They didn't know or care what my skills were. They didn't want to know. I was flat out not going to be hired; it was as simple as that.

. . . What IBM is doing today is hiring and promoting women and minorities so that the internal employee census reflects the percentage of all minorities, including employable women, present in the work force where we have IBM locations . . . A company's policies are only as good as the people who implement them.

What do you think of the company's Equal Opportunity Program? *Think* asked that question of a number of people.

Something is making my experience at IBM different; it could be the Equal Opportunity Program.

. . . After high school I worked as a secretary for a Chicago construction firm, became a draftsman and then a field supervisor, a position I held six years, managing as many as twenty men. I went out daily on construction jobs, making sure my crews did their work properly.

You'd better believe it—I met lots of discrimination. Both as a woman competing in a "man's world" and as a black . . .

Later, when I went to work for a housing authority, they refused to let me be a building inspector or even a draftsman. I was well-qualified for both. "Goodness, you're a woman! We can't have you doing that," they told me. They studiously ignored my on-the-job experience and my courses in engineering science at Chicago's Roosevelt University.

. . . I joined IBM in June 1974. I walked into this company not having a thing in the world to prove, just being myself. That is a very wonderful feeling. I simply told IBM what *I* was about: where I'd been, what I'd done, where I wanted to go. And here I am.

Louis Hughes *regional industry marketing manager, Data Processing Division, New York City*

I believe IBM's EOP policy is one of the most progressive in all industry. It is very effective in providing all employees with equitable and challenging career opportunities based upon individual merit and performance.

Yes, there could be instances where a person is promoted primarily because of minority status rather than ability to do the job. This would be harmful: 1. To IBM, because we don't have as effective an individual as we could have. 2. To our non-minority employees, because in their eyes IBM's merit "philosophy" is being undermined. 3. To the promoted minority individual, because he or she may not be able to compete as effectively as possible. 4. To IBM's minority employees who have achieved responsible positions based on their ability and belief in the IBM merit system.

In my opinion, Federal laws and regulations aren't the primary motivation in meeting EOP guidelines. Rather, it is the sincere commitment by IBM and individual managers to the principles of Equal Opportunity.

EOP objectives are a useful management tool to understand performance and direction. However, it is important that EOP objectives be used with a proper balance of management judgment and perspective. Managers who strive to achieve EOP objectives by selecting individuals on the basis of minority status, and not performance, may be losing sight of their responsibility to ensure that all employees are equitably recognized for their performance.

In the final analysis, EOP policy is an implementation of IBM's basic belief of respect for the individual.

Nancy Kooistra *marketing training instructor, Office Products Division, Dallas*

. . . In today's economy, especially, you can't do mediocre work and expect to hold onto your IBM job, EOP or no. You'll wake up out on the street. If you're a woman in IBM there's another qualified woman out there eager to take your place; if you're a black, another black is out there. IBM's Equal Opportunity Program doesn't mean that anyone can relax, far from it!

. . . I believe the average IBM employee knows managers are measured on EOP, but I sincerely doubt he or she understands *why*. The location EOP presentations are perhaps at fault. They stress what the company is doing; but they don't spell out the exact Federal compliance standards, nor the consequences of not complying, which are a fact of life.

Lawrence Brodhead *department technician specialist, System Products Division, Poughkeepsie*

I believe a man who outdistances his competition should get the job. And the EOP mission, so far as I understand it, is to see that everyone gets a fair chance. Non-whites *and* whites. EOP isn't just for blacks. It's for everyone.

It's conceivable, say, that a white male is qualified for a certain job, meets all the standards, comes out ahead of his competition, but yet doesn't get the job. Well, mister, *he* needs EOP, so far as I'm concerned.

. . . Personally, I think IBM would have gotten around to hiring minorities in substantial numbers even if there weren't Federal regulations. Why? Well, it's just the character of this company. IBM is fair . . .

. . . EOP doesn't mean that blacks or any others have a right to have something handed them on a platter. A lot of people believe in "reparations." Personally, I'd never waste my time looking for so-called reparations.

In my family, there are thirteen children. My Mom and Dad are still living and they've taught us all, "Don't wait around expecting someone to give you something. Go out and get what you want—by working for it." As a result, all of us old enough to be employed have good jobs, including three of us at IBM.

Interviews by Mylas Martin

PRESS COMMENT

"Both IBM and the Justice Department have agreed not to comment on the forthcoming trial. But it would seem that if the Appeals Court ruling is sustained, it is likely to blunt the Justice Department's case . . ."

The Financial Times, January 27

". . . IBM, in short, has grounds for celebration, nor need it drink alone. Sound public policy, and those who cherish it, last week triumphed, too . . . High time somebody recognized that even in a semi-free society, rewards tend to go to those who earn them . . ."

Barron's, February 3

"Although Telex quickly said it would press an appeal to the Supreme Court, the new ruling in IBM's favor is expected to have a profound impact on the many other civil antitrust suits outstanding against IBM. Chief among these is the Justice Department's six-year-old complaint, scheduled to go to trial Feb. 18. Just three weeks ago, a federal judge in New York allowed that complaint to be amended to include charges that echo Telex's."

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"A spokesman for California Computer Products, Inc., Anaheim, Calif., which filed a $100-million suit against IBM two weeks after the trial court's decision in the Telex case, said the company hadn't consulted with its attorneys yet. 'We have always said in the past that we would continue even if the Telex decision was reversed, because we think we have a good case,' he said. 'But we never thought it would be reversed.' "

The Wall Street Journal, January 27

"The reversal represents a setback not only for Telex, but also for the Justice Department, which is preparing its own massive antitrust case against IBM. The original Telex verdict had stiffened the department's resolve, but the appeals court's decision is bound to weaken the Government's case."

Newsweek, February 3

"Back in September, we speculated as to what the impact might be were IBM to win a reversal of the lower court's ruling in the Telex case. Friday night came the news that the appeals court had, indeed, overturned the verdict, throwing out Telex's $259.5-million award. A smashing victory for IBM, particularly in the light of the billions in other pending claims on grounds similar to those pressed by Telex."

Barron's ("Up & down Wall Street"), *January 27*

(Continued from page 9)

an award which, said Cary, was "scarcely supportable under any theory." The chairman pointed out that the award suggested that Telex could have, in three years, increased its profits more than tenfold. "This," he said, "is a highly unusual growth rate."

So it was. And an unusual legal move followed. On November 9, less than two months after his original decision, Judge Christensen trimmed $93-million from the damages to be awarded Telex and significantly modified and limited the injunctive relief he had ordered.

Earlier the judge had admitted making computational errors, part of which, it was felt, might have come from the fact that Telex's forecast of potential earnings was based, in large part, on successfully selling devices based on designs stolen from IBM.

In announcing this news to employees, Cary said that IBM still believed that the basic ruling was erroneous "both in its theory of antitrust law and its interpretation of IBM's business practices. We intend to ask for a reversal of the antitrust decision in the appeals court, on the basis that IBM has competed fairly and within the law."

The case was accepted by the U.S. Court of Appeals for the 10th Circuit (there are 11 of these courts in all), which is based in Denver and has appellate jurisdiction over Federal district courts in Oklahoma and five other states.

IBM filed a brief—its written argument why the judgment should be reversed—in February of 1974, and on May 14, Nicholas deB. Katzenbach, IBM's general counsel, and Thomas D. Barr of Cravath, Swaine & Moore, who had led IBM's defense, appeared before a three-judge panel to present their oral argument.

The essence of that argument—the two men spoke for about an hour and a half—was that IBM was not a monopoly, had not been guilty of predatory acts, and that Telex's misfortunes

were of its own doing. They also argued that the damages against Telex had never been proved.

Barr and Katzenbach pointed out the health and vigor of the data processing industry, and its youth, growth, and ease of entry—all of them qualities lacking in a monopolized industry.

They showed that IBM had a declining share of this market—another strong indication that no monopoly existed—and said that the actions the company took in reducing prices and offering long-term leases were legitimate competitive acts. They said that Judge Christensen's narrow definition of the relevant market—one made up of devices compatible with IBM computers—was wrong, and that he, in his ruling against IBM, had actually done just what the Sherman Act was created to prevent—stifle competition.

After Telex's attorney, Floyd L. Walker, had presented his argument the three judges took the case under consideration.

The long wait began. ∎

Love among the ruins

Katharine Hepburn and Sir Laurence Olivier, together for the first time in a production filmed last summer in London. The two-hour romantic comedy was written especially for television by Emmy Award-winner James Costigan and directed by George Cukor. Tune in Thursday, March 6, on ABC-TV, 9 to 11 p.m. Eastern time. Sponsored by IBM.

HOW MUCH DO YOU KNOW ABOUT THE BUSINESS?

IBM's pretrial brief in the Justice Department suit. How the company will defend itself on those monopoly charges.

Appeals court vindicates IBM in the Telex case. Excerpts from the court's findings.

Equal Opportunity. How is the company doing?

What's behind IBM's newest and smallest computer?

The resident manager. What does he do for you?